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CITY OF BETHEL, ALASKA

Ordinance #17-11

AN ORDINANCE AMENDING BETHEL MUNICIPAL CODE CHAPTER 14 – HARBORS AND PORTS

SECTION 1. Classification. This is a Codified Ordinance and shall become part of the Bethel Municipal Code.

SECTION 2. Amendments. Bethel Municipal Code Chapter 14 – Harbors and Ports, is amended as follows (old language is stricken, new language is underlined):

~~Chapter 14.02~~
~~GENERAL PROVISIONS~~

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

~~14.02.000 Title.~~
~~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.~~

~~14.02.005 Purpose.~~
~~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.~~

~~14.02.010 Equality.~~
~~The city port facilities will be available on an equal basis regardless of race, color, sex, creed or national origin~~

~~14.02.015 State and federal law.~~
~~This title shall not be construed to contravene any applicable state or federal law or regulation.~~

~~14.02.020 Definitions.~~
~~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).~~

~~14.02.030 Port director.~~
~~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.~~

~~14.02.040 Regulations.~~

~~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~~

~~14.02.050 Establishment of rates, charges and tariffs.~~
~~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~~

~~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 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.~~
~~14.02.060 Administrative inspection.~~
~~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~~

~~14.02.070 Facility damage.~~
~~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~~

~~14.02.080 Reporting injury or damage.~~
~~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.~~

~~14.02.085 Expenses of corrective action.~~
~~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.~~

~~14.02.086 Penalty for noncompliance.~~
~~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~~

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

~~14.02.095 Revenues.~~
~~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.~~

~~14.02.100 Disposition of watercraft and property.~~

~~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.~~

~~*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.~~

~~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, fee schedules, rules, and regulations applicable at the port and subject to the approval of the city council and the Federal Maritime Commission if applicable;~~

~~B. Advise the city council with respect to the port facilities concerning the acquisition, ownership, exchange, transfer, lease, rent, conveyance, or disposal, and use of real or personal property and interest therein;~~

~~C. Review contracts prior to execution and monitor and periodically report to the city council concerning the status of all contracts executed with respect to the port facilities;~~

~~D. Advise the city council with respect to the construction, improvement, alteration, or repair of port facilities;~~

~~E. Assist the city council in developing ways and means whereby the city may encourage and permit the development of port facilities by private and public developers and builders;~~

~~F. Hear appeals resulting from actions of the port director and take action on matters referred to the commission by the port director or city council;~~

~~G. Periodically review the budget, capital improvement programs, funding of port facilities and systems and report its findings to the city council;~~

~~H. Perform other such duties as the city council may refer to it from time to time;~~

~~I. Do other such acts as are necessary and proper for the performance of the duties and functions set forth in this title;~~

~~J. The port commission may, at its discretion, hold formal public hearings on any question which may come before it;~~

~~K. The city council shall be the board of appeals for all port commission action.~~

~~14.03.030 Vacancies.~~

~~A vacancy shall be declared by the commission and filled as provided when a member:~~

~~A. Fails to qualify and take his office within thirty (30) days after confirmation by the city council;~~

~~B. Departs from the city with the intent to remain away for a period of one hundred twenty (120) days or more;~~

~~C. Submits a resignation to the city mayor;~~

~~D. Is physically or mentally unable to attend port commission meetings or attend to commission business;~~

~~E. Is absent from three (3) or more consecutive, regular meetings of the port commission without an excuse approved by the commission;~~

~~F. Is convicted of a felony, or misdemeanor, an element of which is a violation of the oath of office;~~

~~G. Is or becomes so directly interested in port or harbor matters in the course of their private affairs that a membership on the port commission creates a conflict or the pervasive appearance of a conflict of interest.~~

~~14.03.040 Administrative support.~~

~~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.~~

~~*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.~~

~~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.~~

~~14.04.050 Preferred vessels.~~

~~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.~~

~~14.04.060 Fishing from city cargo dock and petroleum dock prohibited.~~

~~Fishing from the petroleum dock and the city cargo dock is prohibited.~~

~~14.04.070 Fine.~~

~~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.~~

~~*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.~~

~~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.~~

~~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.~~

~~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.~~

~~*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.~~

~~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~~

~~14.10.020 Transactions to be conducted.~~

~~All registration of boats, payments of moorage and other charges, and other port facilities business shall be conducted at the port office.~~

~~14.10.030 Registration.~~

~~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.~~

~~14.10.040 Classification and use of mooring facilities.~~

~~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.~~

~~14.10.045 Logs and log rafts on port facilities.~~

~~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.~~

~~14.10.050 Unlawful acts.~~

~~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.~~

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

~~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.~~

~~14.10.070 Rentals and fees.~~

~~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.~~

~~14.10.080 Port facilities privilege agreement.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

Chapter 14 – PORT OF BETHEL

14.01 Port Administration

14.01.010 Jurisdiction
14.01.020 Administrative Powers
14.01.030 Administration and Government of Port Facilities
14.01.040 Regulations/Conflicts with Other Laws
14.01.050 Policy and Intent
14.01.060 Use of Facilities; Implied Agreement
14.01.070 Closures
14.01.080 Non-Discrimination
14.01.090 Fees
14.01.100 Funds – Accounting System
14.01.110 Use of Moneys

14.01.010 Jurisdiction

The City of Bethel, in the exercise of its police power, assumes control and jurisdiction over all waters within its limits as now and hereafter constituted. The provisions of this title shall be construed to supplement federal laws and regulations, in cases of concurrent jurisdiction.

14.01.020 Administrative Powers

This title and the Bethel Port and Harbor Tariff shall be deemed an exercise of the powers of the City for the protection, safeguarding, and orderly moorage and control of vessels, and for the protection and general welfare of the public and all of its provisions shall be liberally construed for the accomplishment of that purpose. The City, through its properly appointed representatives, shall have the authority to board any vessel utilizing the harbor or port facilities for the purpose of enforcing this tile and the Bethel Port and Harbor Tariff.

14.01.030 Administration and Government of Port Facilities

The Bethel Port, which includes, but is not limited to, the Small Boat Harbor, Beach 1, Beach 2, the Cargo Dock, the Petro Dock and the seawalls, shall be under the administration of the Port Director who shall have the authority to classify and designate areas of the Bethel Port in accordance with this chapter and all federal laws.

14.01.040 Regulations/Conflicts with Other Laws

A. All operations within the Port, including, but not limited to, the seawall, petro dock, cargo dock, and small boat harbor, if not provided for specifically, shall be conducted in accordance with the rules and regulations established by the Port Commission and approved by the City Council.
B. When any section of this title is found to be in conflict with federal laws and regulations governing the equipping, operation and licensing of vessels on navigable waters of the United States, then such federal laws and regulations shall prevail, but the remaining section of this title shall not be affected.

14.01.050 Policy and Intent

It is hereby declared to be the intent of this title to favor the use of the Port Facilities, seawalls, docks, and small boat harbor by commercial fishermen, government vessels, commercial vessels in trade and commerce, and pleasure craft, and by the general public at large. It is further the intent of this title to prevent and discourage the use of the facilities of the Bethel facilities by boats which have been abandoned by their owners to the point of becoming derelicts as defined in 14.08 or becoming a charge and nuisance to the City, the Port Director, and the general public, or which are unsafe, or which are not used, or are not fit to be used, regularly for transportation on the water.

14.01.060 Use of Facilities; Implied Agreement

The mooring or use or presence of any vessel within any portion of a City of Bethel controlled Port Facility shall constitute an agreement by the owner, operator, master or managing agent to conform to the provisions of this title and any rule, regulation or order made pursuant thereto.

14.01.070 Closures

The City, through its Port Director or other duly authorized agent, may prohibit the use of any wharves, docking facilities, storage facilities, stalls, and other facilities owned or controlled by the City at any time when closing the facilities is required to protect and preserve the public welfare and/or safety.

14.01.080 Non-Discrimination
The City port facilities will be available on an equal basis to all persons regardless of race, color, religion, sex, sexual identity, sexual orientation, national origin, handicap, age, status as a disabled veteran, or veteran of the Vietnam War Era.

14.01.090 Fees
Fees for the approved use of Bethel port facilities and services as set forth in the Bethel Port and Harbor Tariff or the Bethel Fee and Rate Schedule, may be changed by the City Council by resolution; provided that a public hearing has first been held.

14.01.100 Funds – Accounting System
The Port of Bethel, owned and operated by the City, shall be operated from a fund separate from the general fund. An accounting system for each such fund shall be established within the department of finance and shall be set up and maintained so as to reflect the financial condition of the enterprise, its income and expense. A balance sheet and statement of income and expense shall be made for each such fund annually and as often as the city council may request.

~~14.01.110 Use of Moneys.~~
~~A. All revenues from the Port of Bethel shall be expended for the maintenance, operation and improvement of the Port of Bethel and other lawful purposes as the City Council may direct. Revenues from the Bethel boat harbors shall be expended solely for the furtherance of financial stability and self-sufficiency of the Bethel Port Facilities.~~
~~B. Accounting within this fund shall be on the enterprise fund basis.~~
~~C. None of the income money or property of the Port of Bethel enterprise shall be placed in the general fund or be used for the benefit of anything outside of the fund to which it belongs without due compensation or due value received and returned.~~

14.02 Port Director

14.02.010 Port Director - General
14.02.020 Duties and Responsibilities of Port Director
14.02.030 Administrative Inspection
14.02.040 Harbormaster
14.02.050 Fiscal Management
14.02.060 Compliance with Orders of Port Director
14.02.070 Authority to Board Vessels
14.02.080 Promulgation of Rules and Regulations

14.02.090 Services of Port Director; Fees
14.02.100 Limitation of Liability

14.02.010 Port Director - General

A. The Port Director, under the direction of the City Manager, is the chief administrative officer of the Bethel Port Facilities.
B. 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.
C. The Port Director shall have general control and supervision of public landings and related Port of Bethel Facilities and shall preserve order at all times about the same.
D. *Aid.* In order to render aid to distressed persons and vessels in the Bethel Port Facilities, the Port Director and any of the Port Director's authorized deputies and any police officer of the City Bethel shall have the authority to:
   1. Perform any and all acts necessary to rescue and aid persons, and protect and save property.
   2. Take charge of and protect all property saved from marine disasters until such property is claimed by persons legally authorized to receive it, or until otherwise disposed of in accordance with this title or other pertinent ordinances or applicable regulations.
E. *Assignment of Moorage Facilities:* The Port Director shall supervise and manage the assignment of all mooring spaces in the Port Facilities; and, may from time to time, in the Port Director's discretion, in the interests of safety, order, convenience and health, require the owner or operator of any boat, vessel or floating structure to change from one mooring space to another, and may move any boat which is unoccupied and in violation of this chapter.
F. *Moving Boats:* The Port Director and the Port Director's assistants are hereby authorized to direct all waterborne traffic, either in person or by means of visible or audible signal, in conformation with the provisions of this title; provided, that where necessary to expedite waterborne traffic, or to prevent or eliminate congestion or to safeguard persons or property the Port Director or the Port Director's designee, or in the event of a fire or other emergency, such officers and other authorized officers of appropriate governmental agencies or authorities, may direct waterborne traffic as conditions may require.
G. *Posting.* The Port Director shall have the duty and the exclusive power to post signs and to thereby designate the limit of Port Facility speeds, classification and use of Port Facility moorage and storage areas, and the numbers designating exclusive mooring spaces within the mooring areas where such is allowed, and such other signs and notices as would inform the public at large and all boat owners and operators of authorized and prohibited uses of the Port Facilities, as established by the Port Director or by the Port Commission and is authorized to direct all waterborne and vehicular traffic within the limits of the Port Facilities boundaries,

including designated parking and storage areas. The Port Director shall have the power to order the making of appropriate signs to give notice of regulations relating to the use of the facilities.

H. *Powers and Duties:* The Port Director is the chief administrator of the Port and shall be responsible for the overall supervision and direction of the City Port, harbors and waters. The Port Director is hereby charged with the duty of enforcing all of the provisions of this title and of this Code as they may pertain to the Port Facilities and the municipal waters, and any rules and regulations duly adopted under this title, and is hereby empowered to do so. In the performance of such duties, the Port Director shall have all of the powers of a police officer of the City of Bethel.

I. *Refusal of Mooring Facilities:* The Port Director may, in the Port Director's discretion, refuse mooring facilities to any boat, vessel or floating structure which is cumbersome or may become or create a dire hazard or otherwise become a menace to the safety and welfare of other boats and their occupants; when the moorage facilities are crowded, the Port Director may refuse mooring facilities to floats, scows, rafts, pile drivers, boat shelters and other cumbersome floating structures. Upon refusal of mooring facilities, the boat owner, operator, master or managing agent shall be entitled to a pro rata refund of moorage fees paid in advance, less any other fees or charges the City may have against the boat, its owner, operator, master or managing agent.

J. *Storage:* The Port Director shall supervise and manage the assignment of dry land storage;

K. *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.

L. *Supervision:* The Port Director shall supervise and manage the use of the boat lift, launching ramps, grid iron and all other facilities made available by the City.

M. *Traffic direction.* The Port Director and the Port Director's assistants are hereby authorized to direct all waterborne traffic, either in person or by means of visible or audible signal, in conformance with the provisions of this title; provided, that where necessary to expedite waterborne traffic, or to prevent or eliminate congestion or to safeguard persons or property the Port Director or the Port Director's designee, or in the event of a fire or other emergency, such officers and other authorized officers of appropriate governmental agencies or authorities, may direct waterborne traffic as conditions may require, notwithstanding provisions of this title.

14.02.020 Duties and Responsibilities of Port Director

The Port Director is responsible for the overall supervision and direction of the Port, harbors and waters. The authority and duties of the Port Director shall include, but are not limited to, the following:

1. Manage and operate the Bethel Ports, small boat harbor, boat ramps and other water-related areas;
2. The Port Director may prohibit the use of any wharves and docking facilities owned or controlled by the City at any time when closing the facilities is required to protect and preserve the public welfare and safety.
3. Perform all duties imposed by state and federal law upon Port Directors, harbormasters and administrative directors of ports and harbors;
4. Promptly report to the appropriate federal or state agency any violation of the laws of the United States or the State of Alaska for the protection of navigation and preservation of navigable waters and wetlands;
5. Enforce all ordinances and regulations pertaining to the management and operation of the Bethel Port;
6. Make recommendations to the City Personnel Officer regarding the appointment, hiring, promotion, layoff, suspension, demotion or removal of all employees of the Bethel Port;
7. Regulate the use of municipal wharves, including the allocation of wharf space and its use;
8. Regulate and allocate the use of all Port Facilities, docks and waterways located within or adjacent to the city limits of the City of Bethel;
9. Classify areas within the Bethel Port and harbors for various uses; mark mooring spaces to be assigned, and post such signs, numbers, markings or other informational devices as will notify and inform interested parties of authorized and prohibited uses of the Bethel Port Facilities.
10. Remove, or cause to be removed to a place of safety, any motor vehicle found parked within the Port Facilities in violation of this title, or in such a manner as to create a significant danger to the safety of persons or property;
11. Take corrective action if a vessel or person fails to comply with a provision of this chapter, an order of the Port Director, or a rule or regulation promulgated pursuant to this title by rendering such performance himself;
12. Classify areas within the harbor for various uses, mark mooring spaces to be assigned, and post such signs, numbers, markings or other informational devices as will notify and inform interested parties of authorized and prohibited uses of the Bethel Port and harbor facilities;
13. Allocate and assign all mooring spaces;
14. Order any vessel improperly anchored, moored or berthed within the Port to move to a location designated or cause such vessel to be so moved if the order is not complied with;
15. Prepare and submit to the City Manager an annual budget;
16. Prepare and submit to the City Manager at the end of each fiscal year a report on the finances and administrative activities of the Bethel Port;
17. Prepare and make available for public distribution an annual report on the Bethel Port;

18. Prepares such reports as may be required on any phase of Port activity;
19. Attends all meetings of the Port Commission;
20. Perform any other duty that may be necessary in the interest of the Port Facilities or waterways in and adjacent to the city limits for Bethel;
21. Assume such other authority and perform such other duties as may be lawfully prescribed by the Bethel City Council.

14.02.030 Administrative Inspection

A. The Port Director may make a warrantless inspection of any vessel, its crew or its cargo for the purpose of determining whether they pose a threat to the health, safety or welfare of the public, Port Facilities or personnel. 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. Where the Port Director finds that such action is necessary to prevent an immediate and substantial danger to the public health, safety or welfare, the Port Director may make an inspection permitted under subsection (A) of this section without an administrative inspection warrant, provided the Port Director has announced to the City Manager and City Attorney or their designees the intention to enter. Such inspections shall be done peaceably and without violence or harm to person or property.
C. 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.
D. 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 the proper terminal tariffs or other charges are assessed and paid shall be sufficient justification for such warrant. Warrants issued under this section shall be returned within ten (10) calendar days.
E. No person shall refuse to allow the Port Director to enter upon a vessel for purposes specified in this Title.

14.02.040 Harbormaster

The harbormaster is an agent and designee of the Port Director and empowered to exercise day to day oversight of Port Facilities and users. In addition, if the office of Port Director is vacant for any reason, the harbormaster shall fulfill the duties and responsibilities of the Port Director and shall have all the rights and authority otherwise vested therein, including but not limited to enforcement of this Code, rules, regulations, and Tariff of the Port of Bethel. Under those circumstances, all reference to "Port

Director" in the Code, tariff, regulations or other documents should be construed to include the harbormaster as well.

14.02.050 Fiscal Management

A. There shall be an annual independent audit of the accounts and financial transactions of the Bethel Port. The audit shall be performed by a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the City. Copies of the audit shall be available to the public upon request.
B. The fund or funds of the Bethel Port shall at all times remain separate from the general fund of the City.
C. The City shall pay for the use of the Bethel Port at the same standard rate set for other comparable users.

14.02.060 Compliance with Orders of Port Director

No person may intentionally fail or refuse to comply with a lawful order of the Port Director in any matter pertaining to this title.

14.02.070 Authority to Board Vessels

The utilization of any City-owned or City-operated Port Facility or waterway within City limits shall be deemed as a grant of authority to the Port Director and other appropriate City officials to board the vessel for the purpose of enforcing City ordinances and to move the vessel if it is moored in violation of a provision of this chapter or if required by an emergency or other conditions as set forth in this chapter.

14.02.080 Promulgation of Rules and Regulations

The Port Director is empowered and authorized to establish additional rules and regulations governing the use of the Bethel harbors, assignment of stalls, and the general conduct in, around and on harbor facilities and parking areas. Such rules and regulations shall become effective upon approval by the Port Commission. The Port Commission shall provide for an effective date. The Port Director shall print and make available to the public, copies of regulations adopted pursuant to this section.

14.02.090 Services of Port Director; Fees

The Port Director is hereby granted the power and authority to, from time to time, but without any obligation or duty to do so, and without any obligation or liability on the Port Director's part or that of the City for his or her failure to do so, replace defective mooring lines, pump boats which are in dangerous condition for lack thereof, and to move any boat for the purpose of protecting the boat from fire or other hazard, or for the protection of other boats therefrom. Whenever the Port Director shall perform any of the acts hereinbefore authorized, after having given notice to the boat owner or operator at the registered address of the immediate need therefore, or having attempted to give such

notice, the boat and owner thereof is hereby required to pay to the City such fees as are set forth by the Port Commission.

14.02.100 Limitation of Liability
The authority granted to the Port Director shall not create an obligation or duty requiring the Port Director to take any action to protect or preserve any vessel or property located within the Port of Bethel or utilizing Port of Bethel facilities. The City shall not be responsible for loss or damage from fire or other casualty, or theft, vandalism or any other causes of injury to vessels or property moored or located within the Port of Bethel. The City shall not be responsible for any items which have been impounded.

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14.03.010 Jurisdiction

The City of Bethel, in the exercise of its police power, assumes control and jurisdiction over all waters within its limits as now and hereafter constituted. In cases of concurrent jurisdiction, the provisions of this chapter shall be construed to supplement federal laws and regulations.

14.03.020 General Provisions

A. Conditions for using any Port of Bethel properties are subject to specific authorization by the Port Director or his designee and may include provisions to protect public safety, security, environment and health. The Port Director or his designee may waive the provision contained in this chapter whenever such action is in the best interests of the Port of Bethel.
B. Vessels utilizing Port of Bethel properties or facilities shall fully comply with provisions of applicable federal, state, local statutes, laws, ordinances and regulations.
C. The use of Port of Bethel properties or services shall be deemed complete acceptance of the terms and conditions named in this chapter.

14.03.030 Port Facilities Defined

The Port Facilities include all that portion of the Small Boat Harbor, Beach 1, Beach 2, the Cargo Dock, the Petro Dock and the seawalls.

14.03.040 Definitions

Unless otherwise provided in this title or required by the context, definitions set forth in the Bethel Port and Harbor Tariff shall apply to this title.

14.03.050 Fees and Charges – General Use of Facilities

A. The owners or operators of vessels using any Port of Bethel facility or service shall pay the fees thereon established.

B. All rates, fees and charges for the use of facilities and services of the Port of Bethel shall be approved by resolution of the City Council.
C. All fees must be paid in advance to the City for the period prescribed and may be billed on account to the customer for future periods. All other fees not paid in advance shall be billed on account to the customer. All fees shall be non-refundable, except pro-rata refunds of moorage fees may be made, upon the written approval of the Port Director, due to death of the owner or accidental loss of vessel due to sinking, fire or theft.
D. Storage and other port, boat harbor and miscellaneous fees are due and payable in United States currency. Failure to pay invoices when due shall place the vessel or equipment as well as its owners or agents upon a delinquent list. An owner or agent who has been placed on the delinquent list shall not be allowed to utilize the Bethel waterways until all past-due balances and late charges have been paid in full.

14.03.060 Fees and Charges - Tariff

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 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%) 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) calendar 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 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 vessel, its owners or agents or the user of the Port Facilities upon a delinquent list. A vessel 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. a late charge at the rate of two (2%) percent per month on the unpaid balance.

14.03.070 Delinquent Accounts

A. Delinquent accounts shall be subject to collection procedures as followed by the City and as allowed by state and federal laws.
B. Further, a penalty of thirty-five ($35) dollars shall accrue to such account for each calendar month or portion thereof the account is delinquent. In addition to a penalty, delinquent account shall accrue interest at a rate of eighteen (18%) percent per year on the unpaid delinquent balance.
C. Delinquent lists are public documents and may be published.
D. The City of Bethel may utilize any legal means available in the collection of past due balances, including, but not limited to, civil action, liens and seizure of property.
E. The City reserves any right it may have to offset amounts owed by a vessel owner or agent for delinquent fees against any amount owing to the vessel owners or agents under a contract between the City and the vessel owner or agent

14.03.080 Lien Created

A. In addition to any other remedy provided herein at law, rent, fees, moorage, wharfage and other miscellaneous Port of Bethel fees or charges shall constitute a lien against the vessel, its gear, appurtenances and other similar property to the owner or operator, under state and federal law.
B. Fees and charges delinquent ninety (90) days or longer may be foreclosed on by impounding and selling the vessel against which the lien has vested under federal law and the provisions of Chapter 14.10.

14.03.090 Other Remedies

All liens created shall not be exclusive remedies. A proceeding to foreclose any lien or suit thereon by the City shall not preclude any other remedy, including impoundment, at law or in equity.

14.03.100 Annual Review Required

An annual review shall be required of all Port and harbor fees and rates. Such annual review shall be part of the preparation of the Port's fiscal operating budgets.

14.03.110 Duty to Register

A. Every owner, operator or agent of any vessel using the facilities of the Port of Bethel for any period of time is required to register the name, address and telephone number of the registered owner, operator and agent of the vessel; the vessel's length, breadth, registered tonnage (if any) description and uses, the vessel's name and home port, and any other pertinent information required by the Port Director on forms provided for that purpose.
B. All users must pay the required fees immediately but no later than twelve (12) hours after first entering the Port Facilities.
C. In the event of a change of ownership or in operator, a new vessel mooring agreement shall be signed within thirty (30) days after the change.

14.03.120 Required Equipment

All watercraft or vessels shall carry the equipment required by any applicable United States laws or regulations as now or hereafter amended, and shall be numbered or designated in accordance with any applicable United States laws or regulations as now or hereafter amended. In the absence of extenuating circumstances, failure of any boat or vessel within the Bethel harbors to comply with applicable United States laws or regulations shall be in violation of this title.

14.03.130 Vessel Seaworthiness

All vessels moored or docked in the Bethel harbor system must meet the following criteria:

A. Be capable of getting underway under its own power at all times;
B. Be a watercraft constructed and maintained for the primary purpose of navigating the waterways of Alaska and not solely for the specific purposes of maintaining a stationary place of residence, floating storage shop, office or other non-navigational purposes.

14.03.140 Safekeeping of Vessels

A. The owner or operator of a vessel shall use all reasonable efforts and caution to keep the vessel securely moored with lines in a reasonably fit condition, sufficiently pumped at all times to keep the vessel afloat, and to otherwise attend the needs of the vessel to avoid any necessity for services or equipment from the Port Director.
B. If the Port Director determines that a vessel must be re-secured, pumped, moved, or otherwise attended to protect the vessel or other adjacent vessels or property from existing hazards, the Port Director shall give or attempt to give written or verbal notice to the vessel owner or operator, at the registered address, of the need for services to the vessel.
C. If a vessel owner or operator fails, within a reasonable period of time after receipt of notice, to provide services needed for the protection of the vessel or other vessels or property, or if the Port Director is unable within a reasonable period of time to notify the owner or operator, the Port Director may replace defective mooring lines, attach additional mooring lines, pump vessels that are listing or sinking, move any vessel for the purpose of protecting that vessel from fire or other hazard or for the protection of other vessels or property, or render such other services as the Port Director determines may be needed.
D. A fee, based upon a schedule of rates and charges adopted by the City Council, shall be charged to the vessel owner or operator for each service the Port Director performs or causes to be performed for the protection of a vessel or adjacent property.

14.03.150 Sale or Solicitation of Goods or Services
No person may sell or solicit the sale of goods or services upon Port Facilities without a written permit authorized by the Port Commission and issued by the Port Director. The permit may limit sale activity so as to prevent it from interfering with the safe and efficient operation of the Port.

14.03.160 Motor Vehicle Parking
Parking for motor vehicles within the Port of Bethel will be managed by the Port Director or their designee. If parking fees or permits are required for the parking of motor vehicles on any Port of Bethel Facility, the Port Director shall allocate such parking fees or permit fees to the port fund.

14.03.170 Wheeled Vehicles Prohibited
No person may drive any bicycle or any motorized wheeled or tracked equipment upon any float facility without first obtaining the consent of the Port Director.

14.03.180 Aircraft on Water
All vessels or watercraft shall keep clear of aircraft landing within any area now or hereafter set aside for such purpose. Aircraft on the water shall keep clear of all vessels and watercraft and avoid impeding their navigation.

14.03.190 Obstructions to Navigation

A. No vessel may remain in a position which interferes with the mooring or passage of another vessel or creates a danger to persons, vessels or property after the Port Director has ordered it to move.
B. No person may obstruct a municipal slip, basin, channel or wharf so as to interfere with the mooring, passage or activity of a vessel. The Port Director may remove any such obstruction if the owner thereof fails to do so within twenty-four (24) hours after its discovery by the Port Director.
C. No person may tie or attach a skiff, scow, raft or any other auxiliary craft alongside, astern or ahead of a vessel moored within the Port of Bethel if such auxiliary craft will obstruct or interfere with the normal movement of any vessel or be likely to cause rubbing or chaffing damage to any other vessel.
D. No structure, material or substance that can sink in water or obstruct navigation may be deposited in the small boat harbor, city docks or the shores of the small boat harbor or city docks unless written permission is first obtained from the Port Director.
E. When ballast, stone, coal, bricks, scrap, dirt, rubbish or other loose material or matter that can sink in water is being unloaded from or loaded onto a vessel, a canvas chute or similar contrivance shall be used to prevent spills into the waterway.

F. The owner of a vessel which sinks, is grounded or is delayed so as to interfere with navigation, obstruct the Port, or endanger persons or property shall post warnings on the vessel that can be seen during the day and night and remove the vessel as soon as possible.

14.03.200 Logs and Log Rafts on Port Facilities

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 may only use the Cargo Dock or Beach Number 1. Personal use includes use of the logs for home heating, artistic purposes, steam-baths, or constructing shelters, fish racks, or fences.

B. A request must be submitted to the Port Director at least four (4) hours in advance.
   1. ~~The Port Director has the sole discretion to grant, deny or cancel a request.~~ The Port Director shall be notified at least four hours in advance.
   2. If appealed, the decision of the Port Director to deny or cancel a request may only be reversed for abuse of discretion.

C. The request must 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 from the Port Facilities.

D. A request for allowing logs or a log raft in the Port Facilities is only valid for three (3) calendar days from the date the request is received. The logs or log raft, as well as all debris from the logs or log raft, must be removed within three (3) calendar days unless extended at the discretion of the Port Director.

E. Any logs, log raft, and/or debris that remains after the three (3) days shall be declared abandoned and a public nuisance, and may be impounded, removed, sold, or otherwise disposed of as set out in 14.08 – 14.10

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) calendar days of the billing by the Port Director. Penalties may also be imposed and the City may seek injunctive relief. 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. 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.

14.03.210 Blinding Lights

A. No person may operate a vessel searchlight or other bright light in a manner that will temporarily blind or interfere with the vision of an operator of any other vessel in the harbor.
B. No person may operate a searchlight or other blinding light on a vessel not underway in the Bethel harbors, except in an emergency.
C. No person may operate a searchlight or other high intensity light on a vessel in such a manner that the safety and privacy of other persons in the immediate harbor area is disturbed.

~~14.03.220 Regulation of Signs~~

~~A. No person may write or post any written or printed matter in any place within the Bethel harbors except upon bulletin boards constructed for that purpose and only after obtaining permission from the Port Director.~~
~~B. Signs identifying businesses or products may be erected within the Bethel Port Facilities and/or harbors upon approval of the Port Commission only.~~
~~C. No person shall erect, place, post or maintain any advertising matter, sign or other printed matter, other than legal notices, on any part of the Port of Bethel Facilities without approval thereof from the Port Director. All unauthorized advertising shall be removed by the Port Director.~~

14.03.230 Fishing Prohibited

No person may fish from any dock, float, ramp, or any mooring facility operated by the City, nor may any person fish within a waterway in a manner which may interfere with movement of other vessels.

14.03.240 Vessels in Dangerous Condition

Any vessel that enters or is within the Port in a condition which renders it dangerous to persons or property shall be handled according to the directions of the Port Director.

14.03.250 Fire Hazards Prohibited

A. No person may leave a fire or flame unattended aboard a vessel within the Bethel harbors. A fire or flame is unattended unless the owner, operator, or other person over the age of eighteen (18) years who has demonstrated capability for moving the vessel is aboard or within one hundred (100) yards of the vessel.
B. No person may store, deposit, or leave on any float, dock, or other Port Facility any gasoline, lubricating oil, or other combustible liquid of any nature or description, except for temporary purposes in conjunction with the loading or unloading of a vessel.
C. A person using a torch or other flame-producing device in or upon any vessel, dock, float, or other Port Facility shall provide, and have immediately available for use, an approved fire extinguisher or hose connected to a water supply system adequate for suppressing any fires that may result from the use of the flame-producing device.

14.03.260 Vessel Departure

A. The Port Director may direct a vessel to depart for the protection of persons or property, to ensure efficient use of the Port, or in response to the vessel's failure to remit required charges or tariffs.
B. Upon the order of the Port Director, a vessel shall immediately vacate its berth so that a reserved vessel may berth there. Failure of a vessel to comply with such an order shall be a violation of this section and will subject the vessel to fines in addition to liability for all damage sustained by the reserved vessel.

14.03.270 Facility Damage

Any person and/or vessel damaging any property interest of the Bethel Port, harbor or City property shall be strictly liable to the City without regard for fault or negligence for all damages including, but not limited to, costs incurred by the City in repairing or replacing the damaged property, administrative overhead and collection costs.

14.03.280 Reporting Injury or Damage

A. The operator of any boat or vessel involved in an accident resulting in injury, death, or in damage to property in excess of Three Hundred ($300) Dollars shall immediately stop such vessel at the scene of such accident and shall render aid as he or she is capable, give name, address, and the name and number of her or his boat, and the name and address of the owner, to the person struck or the operator or occupants of the boat collided with, or property damaged.
B. The master, owner, or operator of the boat or vessel who is involved in the accident 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.

14.03.290 Liability for Cost of Corrective Action

A. If a vessel or person fails to comply with the provisions of this chapter, a rule or regulation promulgated pursuant to this chapter or an order of the Port Director, and the Port Director initiates corrective action, the vessel or person shall be liable for all expenses, including administrative overhead, incurred by the Port in executing the corrective action.
B. If the Port Director takes possession or control of a vessel or other property in the course of taking corrective action, such possession or control may be continued until such time as the expenses, including attorneys' fees, storage fees, custodial fees and any other cost or fees, required or incurred by the Port Director are paid. If expenses remain after ninety (90) days, the port director may treat the vessel or property as abandoned and may proceed in accordance with section 14.09.

C. Initiation of corrective action under this section is a discretionary function of the Port Director.
D. All persons and vessels that owe fees or expenses under this section shall be denied use of the Port Facilities until such fees are paid.

14.03.300 City Not Responsible for Loss or Damage
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, harbor or other waterways within or adjacent to the City of Bethel. The authority granted to the Port Director shall not create an obligation or duty requiring the Port Director to take any action to protect or preserve any vessel or property located within the Bethel harbors or utilizing harbor facilities. The City assumes no liability for loss or damage to vessels, equipment, appurtenances, tackle, provisions, mooring lines, gear, supplies, or any other article attached or relating to a vessel, whether maintained or affixed to a vessel or separately stored at Port Facilities.

14.03.310 Obligation of Port
The setting forth of rates or charges in this chapter shall not imply an obligation on the Port of Bethel's part to provide such facility or service.

14.03.320 Dry Storage Area – Short Term Only
A. The storage of boat parts, engine parts, and other miscellaneous items is permitted in designated portions of the Port Facilities as designated by the Port Director. Persons desiring to utilize this unsecured storage area shall first register with the Port Director and provide the requested information regarding the description and quantity of items to be stored, as well as the anticipated period for storage.
B. Each item placed in the dry storage area shall be marked with a tag containing the name and number of the vessel to which the gear belongs, the name and address of the registered owner, and the name of the operator of the vessel. The Port Director may establish barriers to segregate stored items.
C. No item may be stored in the dry storage area for a period in excess of ninety (90) consecutive days. Items stored for a period in excess of ninety (90) days shall be impounded by the Port Director. Property so impounded may be sold at the expiration of three (3) months from the date of impoundment unless the registered owner or the owner's agent pays accrued storage and impoundment fees and removes the property from the designated storage area.

14.03.330 Storage on Floats or Docks
A. All floats, docks, ramps, and approaches shall be maintained free and clear of any objects or items that are not appurtenances or fixtures to the floats, docks, ramps, and approaches.

B. No person may store or place upon any float, dock, ramp, or approach any repair parts, machinery, equipment, or gear, except in conjunction with the loading or unloading of a vessel or at work areas designated by the Port Director.
C. Property of any sort found upon a float, dock, ramp, or approach may be impounded by the Port Director if such property is not immediately removed.

14.03.340 Charges for Facilities and Services

A. Charges required by the City of Bethel to be paid in advance shall be paid at the Port Director's office prior to utilization of any facility or equipment, or receipt of any service.
B. Upon registration for exclusive moorage, the owner or operator of a vessel shall annually deposit a sum equal to twenty-five (25%) percent of the annual exclusive moorage fee as security for payment of fees that will accrue if the vessel owner or operator fails to register for the next season and does not advise the Port Director of termination of the exclusive moorage agreement and availability of the space for reassignment. The security deposit shall be refunded upon notice of termination, received on or before June 1, if there are no accrued or delinquent charges for services rendered to the vessel by the City.
C. The fees and charges for other facilities, equipment, and services provided or made available within the Bethel Port Facility that are not required to be paid in advance shall be paid within thirty (30) days after billing. Billings that are not paid within thirty (30) days shall accrue interest at the rate of eighteen (18%) percent per year from the due date.
D. The fees and charges for the use of facilities or services associated with the Bethel Port Facilities shall be established by resolution of the City Council.

14.03.350 Persons Under the Age of Sixteen

No person under the age of sixteen (16) years shall be allowed on the dock and floats, or in the boat harbor, unless in the company and under the control of such person's parent or guardian or some other person over the age of nineteen (19) years having the supervision and control of such person under the age of sixteen (16) years, and for the time and place exercising the responsibilities of such person's parent or guardian. A person between the ages of sixteen (16) and seventeen (17) years may apply to the Port Director and for good cause shown shall be granted a permit to go on the dock and floats or in the boat harbor by herself or himself. Such permit may be restricted and conditioned as, in the judgment of the Port Director, is warranted by circumstances. Such permit shall be revocable by the Port Director if the permittee abuses the privilege of access to the Port Facilities. Good cause for the purposes of this section shall consist of:

1. Care of boats;
2. Entering or exiting the harbor by boat;

3. Employment requiring access to the boat harbor; or
4. Other legitimate and compelling reasons where denial of access would create an undue hardship on the person.

14.03.360 Responsibility for Animals

A. A person owning or in charge of any animal within the Bethel Port Facilities shall keep that animal restrained on a leash not more than five (5') feet in length.
B. The owner or person in charge of any animal shall keep the animal from any loud barking and howling. The animal must be securely leashed and all offal deposited on deck shall be removed in a manner so as to not prevent or hinder persons from crossing a vessel's deck to board their own vessel, or otherwise disturb the peace and good order of the Port Facilities.

14.03.370 Occupancy of Vessels

A. No person may use or occupy a vessel moored at Port Facilities as a place of residence, nor may a person rent or lease such a vessel as a place of residence, utilize it as a rooming house, or permit it to be occupied for any period of more than five (5) days by any person other than the normal crew of the vessel.
B. A vessel which is not in regular use for the purposes for which it is normally operated and which has remained moored to Port Facilities continuously for a period of ninety (90) days or more may not be occupied, except that one person may occupy the vessel if serving in the capacity of a caretaker.

14.03.380 Disposal of Waste, Litter and Garbage

A. No person may dump or deposit any waste, litter, garbage, refuse, debris, or petroleum product into the waterways or onto any dock, float, or other Port Facility not designated and designed for the disposal of trash.
B. A person in charge of or occupying a vessel shall at all times keep the floats and premises adjacent to such vessel in a neat and orderly condition, free from trash, refuse, garbage, and debris of any kind.
C. All garbage, trash, refuse, and waste to be disposed of within the Port Facilities shall be deposited in garbage containers located near the loading dock, except as otherwise provided in this chapter.
D. Waste oil shall be deposited in containers designated for the disposal of waste oil and shall not be deposited in any other garbage or trash container.
E. No person may pump any bilge containing oil or gasoline residue within the Bethel Port Facilities.

14.03.390 Reckless Operation

The operation of any vessel in any manner which unreasonably interferes with the free and proper use of the Port of Bethel or unreasonably endangers the users of the waters of the Port of Bethel is prohibited.

14.03.400 Violation/Penalties

A. Violation of any provision of this Title is an infraction subject to a fine. In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. If an offense is not listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges. These fines may not be judicially reduced.

~~Violation~~	~~Code Section~~	~~Fine~~
~~Failure to Register Vessel~~	~~4.03.110~~	~~$150~~
~~Failure to timely notify Port of Change in Ownership~~	~~4.03.110~~	~~$150~~
~~Failure to timely file new vessel mooring agreement following change in ownership~~	~~4.03.110~~	~~$150~~
~~Failure to maintain proper equipment~~	~~4.03.120~~	~~$50 - $250~~
~~Vessel not Seaworthy~~	~~4.03.130(A)~~	~~$500~~
~~Docking or mooring a vessel whose primary purpose is other than navigating the waterways of Alaska~~	~~4.03.130~~	~~$500~~
~~Failure to securely moor vessel~~	~~4.03.140~~	~~$200~~
~~Failure to sufficiently pump vessel~~	~~4.03.140~~	~~$150~~
~~Failure to promptly correct deficiencies in vessel safekeeping~~	~~4.03.140~~	~~$350~~
~~Sale or solicitation of goods without a permit~~	~~4.03.150~~	~~$250~~
~~Sale or solicitation of goods in violation of or outside the scope of permit~~	~~4.03.150~~	~~$250~~
~~Improper Parking on Port Facilities~~	~~4.03.160~~	~~$50 / day~~
~~Wheeled vehicles on float facility~~	~~4.03.170~~	~~$75~~
~~Obstructing Navigation~~	~~4.03.190~~	~~$500~~
~~Interfering with mooring or passage of another vessel~~	~~4.03.190~~	~~$300~~
~~Obstructing municipal slip, basin, channel, or wharf~~	~~4.03.190~~	~~$300~~
~~Placement structure, material or substance that can sink in water without authorization~~	~~4.03.190~~	~~$300~~
~~Failure to install, utilize or property use canvas chute~~	~~4.03.190(F)~~	~~$300~~
~~Failure to post warnings around sunken vessel~~	~~4.03.190~~	~~$500~~

~~Improper or insufficient posting of warning around sunken vessel~~	~~4.03.190~~	~~$500~~
~~Failure to timely remove sunken vessel~~	~~4.03.190~~	~~$1000~~
~~Logs or log rafts on Port Facilities without authorization~~	~~4.03.200~~	~~$200~~
~~Logs on Port Facilities for commercial use in other than designated areas~~	~~4.03.200~~	~~$300~~
~~Failure to timely file request to bring logs or log rafts onto Port Facilities~~	~~4.03.200~~	~~$50~~
~~Failure to timely remove logs, log rafts or debris~~	~~4.03.200~~	~~$250~~
~~Improper Use of Blinding Lights~~	~~4.03.210~~	~~$200~~
~~Posting Signs without authorization~~	~~4.03.220~~	~~$100~~
~~Removing, tampering with or destroying signs~~	~~4.03.220~~	~~$150~~
~~Fishing in Prohibited Areas~~	~~4.03.230~~	~~$100~~
~~Vessels in Dangerous Condition~~	~~4.03.240~~	~~$350~~
~~Fire Hazards Created~~	~~4.03.250~~	~~$350~~
~~Unattended Fire Hazard~~	~~4.03.250~~	~~$500~~
~~Storing gasoline, lubricating oil or other combustible liquid~~	~~4.03.250~~	~~$500~~
~~Failure to have fire extinguisher or hose available when using a torch or other flame producing device~~	~~4.03.250~~	~~$500~~
~~Failure to depart upon Port Director directive~~	~~4.03.260~~	~~$500~~
~~Failure to Report Accident or Injury~~	~~4.03.280~~	~~$700~~
~~Failure to timely report accident or injury~~	~~4.03.280~~	~~$650~~
~~Loose animals on Port Facilities~~	~~4.03.360~~	~~$100~~
~~Failure to properly dispose of animal waste~~	~~4.03.360~~	~~$100~~
~~Failure to control loud barking or howling~~	~~4.03.360~~	~~$100~~
~~Occupying vessel moored at Port Facility as a residence, rooming house or office~~	~~4.03.370~~	~~$750~~
~~Improper disposal or waste, litter or garbage~~	~~4.03.380~~	~~$50 - $100~~
~~Failure to keep floats and premises adjacent to vessel in neat an orderly condition~~	~~4.03.380~~	~~$100~~
~~Improper disposal of waste oil~~	~~4.03.380~~	~~$200~~
~~Pumping Bilge Oil or Gasoline Residue within Bethel Port Facilities~~	~~4.03.380~~	~~$350~~
~~Reckless Operation of a vessel~~	~~4.03.390~~	~~$1,000~~

Violation	**Code Section**	**Fine**
Duty to Register Vessel	4.03.110	$150
Required Equipment	4.03.120	$100

Vessel not Seaworthy	4.03.130(A)	$500
Vessel Seaworthiness	4.03.130	$500
Safekeeping of Vessels	4.03.140	$250
Motor Vehicle Parking	4.03.150	$250
Improper Parking on Port Facilities	4.03.160	$50
Wheeled Vehicles	4.03.170	$75
Aircraft on Water	4.03.180	$175
Obstructing Navigation	4.03.190	$350
Failure to timely remove sunken vessel	4.03.190	$1000
Logs or log rafts on Port Facilities	4.03.200	$200
Blinding Lights	4.03.210	$200
Signs	4.03.220	$125
Fishing in Prohibited Areas	4.03.230	$100
Vessels in Dangerous Condition	4.03.240	$350
Fire Hazards	4.03.250	$500
Vessel Departure	4.03.260	$500
Reporting Injury or Damage	4.03.280	$700
Failure to timely report accident or injury	4.03.280	$650
Dry Storage	4.02.320	$200
Storage on Floats or Docks	4.02.330	$225
Unattended Minors	4.02.350	$100
Responsibility for Animals	4.03.360	$100
Vessel Occupancy	4.03.370	$750
Waste Disposal	4.03.380	$75
Reckless Operation	4.03.390	$1,000

Each day that a violation occurs is considered a separate offense.

14.03.410 Revenues

A. Six cents ($0.06) of each dollar of fuel thru-put revenue generated by the Port shall be transferred to designated accounts as follows:
   1. Two cents ($0.02) of fuel thru-put revenue generated at the Port shall be transferred to a designated deferred seawall maintenance account upon payment,
   2. Two cents ($0.02) of fuel thru-put revenue generated at the Port shall be transferred to a designated deferred municipal dock fund, and
   3. Two cents ($0.02) of fuel thru-put revenue generated at the Port shall be transferred to a designated fund for the small boat harbor.

B. 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.

Introduced by: Port Commission
Introduction Date March 28, 2017
Public Hearing: April 11, 2017
Public Hearing: April 25, 2017
May 9, 2017
Action: Passed
Vote: 6-0

14.04 Port Commission

14.04.010 Establishment of Port Commission
14.04.020 Reservation of Powers
14.04.030 Composition, Term of Office and Procedures
14.04.040 Duties
14.04.050 Vacancies
14.04.060 Administrative Support
14.04.070 Meetings
14.04.080 Membership in Associations
14.04.090 Schedule of Fees and Charges
14.04.100 General Powers
14.04.110 Rules and Regulations
14.04.120 Limitation on Authority

14.04.010 Establishment of Port Commission

A Port Commission shall be established for the purpose of advising the City Council on the operation, maintenance and improvement of the Port of Bethel's facilities, and for such additional purposes as the City Council may from time to time designate.

14.04.020 Reservation of Powers

The City Council reserves to itself the power and authority to approve or disapprove all regulations, rates, or the acquisition or disposal of any interest in real property pertaining in any manner to the administration of the Bethel Port.

14.04.030 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.
B. Any registered Bethel voter is eligible to be appointed as a Port Commissioner. No person shall be ineligible solely because he or she holds an elected, appointed or employee position with the City. A Commission member who ceases to be eligible to be a City voter forfeits his or her office as a Commissioner.
C. One (1) of the seven (7) members shall be a City Councilmember.
D. All appointments shall be for staggered 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.
E. In the event of vacancies, the mayor, subject to confirmation by the City Council, shall make appointments to fill the vacant positions. In the event a seat has six (6) months or less remaining to the unexpired term, the Council, at its discretion, may choose to appoint the member to the remainder of the current term as well as to the full term immediately following the expiration date of the unexpired term.

F. Commissioners can be removed from office for cause only.
G. The City shall supply staff assistance for the Commission.
H. Terms shall commence on ~~July~~ January 1.
~~I. No Commission member, or member of a Commission member's immediate family or household, may be employed by the Port Department.~~ No employee of the Port Department or any member of their immediate family may hold a seat on the Commission.
J. The Commission shall use Robert's Rules of Order. Regular meetings of the Commission will be at least monthly. 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.
K. The Commissioners shall elect annually from its members a chair and vice chair and such other officers as it deems necessary. The Commission may appoint such committees as it deems necessary.
L. 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.
M. An agenda of meetings shall be prepared and published according to established rules of the City Council.
N. 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.
O. 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.

14.04.040 Duties

The port commission shall:

~~A.~~ Regulate the operation of the Port Facilities by promulgating a terminal tariff containing rates, charges, rules and regulations applicable at the port and subject to the approval of the Council ~~and the Federal Maritime Commission;~~
B. Promulgate rules and regulations relating to the operation of terminal and transportation facilities at the port;
C. Advise the City Council with respect to the Port Facilities concerning the acquisition, ownership, exchange, transfer, lease, rent, conveyance, or disposal, and use of real or personal property on Port property and interest therein;
D. Review Port contracts prior to their execution and monitor and periodically report to the City Council concerning the status of all contracts executed with respect to the Port Facilities;

E. Advise the City Council with respect to the construction, improvement, alteration, or repair of Port Facilities;
F. Review plans for construction and development within the confines of the Port of Bethel and shall report to the City Council the expected impact of such construction or development on the Port of Bethel. The Port Commission shall make appropriate recommendations to the City Council concerning such construction or development.
G. Study and make recommendations generally on Bethel port matters such as, but not limited to, tariff rates, fiscal matters, management services, personnel staffing, safety precautions, expansion or extension of services and public relations;
H. Assist the City Council in developing ways and means whereby the City may encourage and permit the development of Port Facilities by private and public developers and builders;
I. Hear appeals resulting from actions of the Port Director and take action on matters referred to the Commission by the Port Director or City Council;
J. Periodically review the budget, capital improvement programs, funding of Port Facilities and systems and report its findings to the City Council;
K. Prepare and submit to the City Council an annual report of operations and finances, including recommendations for the safe, efficient and economical operation of the Bethel Port.
L. Perform other such duties as the City Council may refer to it from time to time;
M. Do other such acts as are necessary and proper for the performance of the duties and functions set forth in this title;
N. The Port Commission may, at its discretion, hold formal public hearings on any question which may come before it;
O. The City Council shall be the board of appeals for all Port Commission action. The City Council may delegate to a hearing officer the authority to hear and decide appeals.

14.04.050 Vacancies

A. A vacancy shall be declared by the Commission and filled as provided when a member:
   1. Fails to qualify and take office within thirty (30) days after confirmation by the City Council;
   2. Departs from the City with the intent to remain away for a period of ninety (90) days or more;
   3. Submits a resignation to the City Mayor, City Clerk, Commission or Port Director;
   4. Is physically or mentally unable to attend Port Commission meetings or attend to commission business;
   5. Is absent from three (3) or more consecutive, regular meetings of the Port Commission without an absence pre-approved by the Commission;

a. For purposes of this section, an absence will be considered excused if due to the following causes and shall require approval by the Commission at the next regularly scheduled meeting:
   (i) The illness or injury of the Commissioner or a family member;
   (ii) The death of a family member;
   (iii) An employment-related commitment;
   (iv) A commitment for City business; or
   (v) Other good cause approved by the Commission.
b. Whenever possible absences should be noticed to the Commission chair prior to the meeting for purposes of securing a quorum at the meeting.
c. A Commissioner may participate in a commission meeting by teleconference.

6. Misses forty (40%) percent or more of the regular board meetings in a twelve (12) month period;
7. Is convicted of a felony, or misdemeanor, an element of which is a violation of the oath of office; or
8. Is or becomes so directly interested in Port affairs in the course of their private affairs that a membership on the port commission creates a conflict or the reasonable appearance of a conflict of interest.

B. For the purposes of counting attendance, a member participating telephonically shall be counted as present.
C. The chair of the Port Commission shall notify the City Clerk's office of any vacancy on the Commission.

14.04.060 Administrative Support

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.

14.04.070 Meetings

A. A majority of the membership of the Commission shall constitute a quorum for the transaction of all business, and the chairperson shall have the vote on all matters. The affirmative vote of a majority of the Commission shall be sufficient to pass upon all matters coming before it.
B. The Commission shall choose a chairperson, vice chairperson and, if desired, a secretary, each year at the first meeting following the qualification of one or more commissioners appointed that year by the City Council.
C. The Port Commission shall attempt to meet at least nine (9) times each year at a regularly scheduled time. Port Commission meetings shall be held at Bethel City Hall. All meetings of the Commission shall be open to the public. The secretary (or City appointed recorder) shall draft the minutes of all regular and special meetings in a manner accurately reflecting the actions of the Commission and shall file the minutes of these meetings permanently as public records.

14.04.080 Membership in Associations

The Port Commission as a whole may maintain membership in any local, state or national group or association organized and operated for the promotion, improvement or assistance in the administration of Port and harbor facilities and, in connection therewith, pay dues and fees thereto.

14.04.090 Schedule of Fees and Charges

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 vessels, 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, use of adjacent property and other charges as appropriate.
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 in 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 representative, 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 rates by approval of modification of either the Bethel Fee and Rate Schedule or the Bethel Tariff. 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.

14.04.100 General Powers

Subject to state laws and City ordinances, the Port Commission shall generally exercise all powers necessary and incidental to operation of all Port Facilities in the public interest and in a sound business manner. In particular, and without limitation on the foregoing, the Commission shall make recommendations for:

A. ~~Be responsible for~~ the operation, development and marketing of City owned and operated Port Facilities, including such facilities as boat harbors, docks, boat launching ramps, and related facilities except as designated by the City Council by resolution.

B. Adopting, pursuant to the Bethel Municipal Code, and enforcing regulations necessary for the administration of the facilities under its port management.
C. Prescribing the terms under which persons and vessels may use the facilities and shall establish and enforce standards of operation.
D. Administering and disposing of City tideland, submerged land, and other land as provided by the Council by ~~resolution~~ ordinance as subject to Port Commission ~~Administration~~ recommendations, subject to the following limitations:
   1. No sale, purchase, or trade of land shall be made without prior review by the planning commission and approval by the City Council by ~~resolution~~ ordinance.
   2. Unless otherwise designated in advance by the City Council by ~~resolution~~ ordinance, 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.
   3. All land transactions recommendations by the Commission in accordance with this section shall be consistent with the comprehensive land management plan developed under this Code.
E. The development, adoption, alteration or revision, subject to approval by the City Council, a master plan for the physical development of harbor or Port Facilities for the City. Such master plan with accompanying maps, plats, charts, descriptive and explanatory matter shall show the Commission's recommendations for the development of City Port Facilities and may include, among other things:
   1. Development of the type, location and sequence of all public Port Facilities;
   2. The relocation, removal, extension or change of use of existing Port Facilities.
F. The administration for the design and construction of all capital improvements on lands managed by the Port Commission unless otherwise specified by the City Council by resolution. The Commission 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 City Council with other City capital improvement funding requests prior to application for funds.
G. Subject to City Council review and approval, may recommend the port director enter into Memoranda of Understanding and similar agreements with public agencies for Port purposes.
H. Contracts for public improvements and, whenever practicable, other purchase of supplies, materials, equipment, and services, including professional services, shall be subject to the procurement procedures established in chapter 4.20, provided that the Commission 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 4.20, all actions required thereby of the City Manager or the purchasing officer shall be performed by the Port Director, and provided further that any appeal of any protest of a procurement so

administered shall be initially decided by the Port Commission instead of the City Manager.

~~14.04.110 Rules and Regulations~~

~~A. The Commission shall propose to the City Council rules and regulations consistent with this chapter for the conduct of its meetings and for the orderly, safe and efficient operation of the Bethel Port facilities.~~

~~B. Prior to the submission of proposed rules and regulations to the City Council for promulgation, the same proposed rules and regulations shall be presented at a regularly scheduled meeting of the Commission. Public notice shall be accomplished by the timely publishing in a local newspaper of general circulation of a descriptive summary of the proposed rules or regulations, including the date and time of consideration for passage by the Commission, and a statement that the full text of the proposed rules and regulations is available for public inspection at the office of the Bethel City Clerk.~~

14.04.120 Limitation on Authority

The Port Commission members may commit the City to long-range Port development or capital improvement plans or projects only as authorized in advance by the Council by ordinance or resolution.

14.05 Moorage

14.05.010 Registration
14.05.020 Mooring without Registration and Other Prohibited Acts
14.05.030 General Moorage Rules
14.05.040 Exclusive/Reserved Mooring
14.05.050 Open/Transient Mooring
14.05.060 Multiple Boat Moorage
14.05.070 Reservations
14.05.080 Rights not Exclusive
14.05.090 Preferred Vessels
14.05.100 Safe Condition of Vessel
14.05.110 Denial of Facilities, Equipment or Service
14.05.120 Operation of Commercial Businesses
14.05.130 Houseboats
14.05.140 Vessel Liable for Damage
14.05.150 Required Equipment
14.05.160 Duties of Boat Owners
14.05.170 Unauthorized Bumpers Prohibited
14.05.180 Manifests
14.05.190 Sunken or Obstructive Boats
14.05.200 Smoking Prohibited

14.05.210 Fishing Prohibited
14.05.220 Loading or Unloading Explosives
14.05.230 Fires, Welding Activities
14.05.240 Petroleum Products
14.05.250 Loading or Unloading Petroleum Products
14.05.260 Depositing Cargo or Other Property without Permission
14.05.270 Speed Limits
14.05.280 Safety Ladders
14.05.290 Seawall Fence
14.05.300 Tampering with the Facilities
14.05.310 Violation/Penalties

14.05.010 Registration

Every owner, master, operator or managing agent of any vessel using the Bethel Port Facilities is hereby required to register his or her name, telephone number, post office and street address, and the name and ~~number~~ Official number or state registration number of the vessel, its length, its breadth and registered tonnage, if any, with the Port Director on forms to be provided by the Port Director for that purpose.

14.05.020 Mooring without Registration and Other Prohibited Acts

A. No person may moor, berth, tie, attach, or connect a vessel to any Port Facility without registering with the Port Director and paying or executing an agreement to pay applicable moorage charges. Vessels operating in the City's waterways or moored to floats or dock facilities, either private or public, within the City limits shall register said vessels with the Port Director for the safety and public welfare of the Port of Bethel.
B. 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.
C. A person registering a vessel with the Port Director shall present the U.S. Coast Guard documentation or registration papers for the vessel and provide the name, number, type, dimension, description, and uses of the vessel, the name and address of the registered owner, operator, and agent for the vessel, the type of registry requested, and such other information as may be requested by the Port Director. In the event of a change of ownership in, or a change in the operator of, a vessel previously registered with the Port Director, the previous owner or operator shall so notify the Port Director within thirty (30) days after the change. A new vessel mooring agreement shall be signed by the new owner or operator within twenty-four (24) hours after the vessel's first use of any Port Facility following the change.
D. It is unlawful to moor where signs prohibit moorage at floats, docks, ramps, or loading zones. It is unlawful to moor in areas restricted as exclusive moorage without first obtaining permission from the Port Director.

E. A vessel that is moored but not registered with the Port Director may be moved at any time by the Port Director, with or without notice to the vessel owner or operator, and the owner or operator shall be charged the applicable fee for the Port Director services.
F. It shall be unlawful for any person to make any false statement or knowingly to provide any inaccurate information in a vessel mooring agreement or application for the use of Port Facilities.
G. It shall be unlawful for any person who authorizes or permits himself or herself to be listed in a vessel mooring agreement as an owner or operator of a vessel to fail to respond or to deny association with the vessel when called upon by the Port Director to move, pump, or otherwise attend to the vessel.
H. The vessel owner shall neither sublease or allow another vessel to use its assigned space.
I. The Port Director may require any vessel moored to or otherwise utilizing Port Facilities, whether or not the subject of a vessel mooring agreement, to be moved as necessary to effect repairs or additions to or the replacement of floats, docks, buoys, and similar facilities.

14.05.030 General Moorage Rules

A. The vessel owner is responsible for conducting his/her operations in a safe and lawful manner.
B. Mooring is limited to designated areas only.
C. The vessel shall be secured only to mooring bits that are installed independently to the bulkhead.
D. Adequate bumpers or fenders must be placed by the vessel to prevent damage to the seawall or other moorage location.
E. Mooring bits may only be placed by the City or with the City's permission, after approval by the Port Director as to the mooring bit's location. No mooring bit may be placed such that tie backs are damaged.
F. No vessel is allowed to moor alongside another watercraft moored at a Port Facility for the purpose of loading or unloading without the Port Director's written approval.
G. No vessel shall block or be moored in any area designated by the Port Director as a launching area for any period of time longer than necessary for launching/hauling out the boat.
H. The floating docks situated along the Port Facilities 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 any other Port Facility.
J. No hazardous or explosive freight or material may be stored along the seawall/cargo dock or either Beach or loaded or unloaded to/from watercraft over any of the mentioned locations.

K. Small vessels using the floating docks shall not load, discharge or transport over the Port Facilities 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 the floating docks.
M. There shall be no refueling of vessels moored to a Port Facility. Vessels must be moved to the Petroleum Dock or other designated fueling location.
N. The vessel owner, master or agent, shall indemnify and hold harmless the City from any and all claims and damages, including costs and attorney's fees, caused by or resulting from any negligent, intentional or malicious act or omission while the vessel is moored to any Port Facility.

14.05.040 Exclusive/Reserved Mooring

A. Every vessel owner desiring to guarantee the availability of a mooring space shall apply directly to the Port Director and enter into a mooring agreement provided by the City. No space shall be reserved or assigned until the appropriate fee has been paid in full.
B. The Port Director shall lease such space, if available, on a seasonal basis only.
C. The Port Director shall assign or re-assign such reserved moorage so as to achieve the most efficient use of the Port of Bethel space.
D. Space designated for exclusive/reserved moorage shall be assigned by the Port Director for the exclusive use of one vessel per stall or space.
E. Exclusive moorage rights may not be assigned or subleased.
F. The owner or operator of a vessel utilizing exclusive/reserved moorage space shall notify the Port Director each time the space will be unoccupied.
G. During such periods when the assigned vessel will not be utilizing exclusive/reserved moorage space, the Port Director may assign such space for transient moorage. Upon not less than two (2) hours' notice by the vessel entitled to exclusive moorage, the Port Director shall cause the removal of any transient vessel utilizing the exclusive moorage space.
H. When the party holding exclusive moorage rights is a corporation or partnership, the sale or other conveyance of a controlling interest in that corporation or partnership shall automatically result in a termination of the exclusive moorage rights.
I. If a vessel owner with reserved moorage sells the vessel or loses the vessel to fire, sinking or natural disaster, he may retain the reserved space for the remainder of that season. The Port Director may assign such stalls for temporary use during their vacancy.
J. No property rights are created by this section or this title. The holder shall have only a license to use the space reserved to him or her as provided in this title.

K. Both the owner and the operator of a vessel which moors in a reserved mooring space without the written permission of the Port Director or executing the required moorage agreement shall be guilty of an infraction and the vessel shall be deemed to trespass.

14.05.050 Open/Transient Mooring

A. Areas designated for open/transient mooring shall be open to all members of the public. Such areas shall be used primarily for temporary mooring. Transient mooring spaces shall be utilized on a "first-come-first-served" basis. No vessel or vessel owner or operator shall have any exclusive right to transient mooring space. Should any vessel leave a transient mooring space for any purpose, it shall have no exclusive right to return to the same space if, upon return, that space is occupied by another vessel.
B. A vessel mooring alongside another vessel shall moor adjacent to a vessel of similar size.
C. Immediately upon notice from the Port Director, the owner or operator of such temporarily assigned transient vessel shall remove the vessel from the assigned space. If the vessel owner fails to move immediately upon receipt of such notice, the Port Director may move the vessel from the reserved space, and the owner shall be charged such fee as established by the Bethel Fee and Rate schedule. In case the Port Director is unable to contact the owner or operator of such temporarily assigned transient vessel, the Port Director may move the vessel from the reserved space.

14.05.060 Multiple Boat Moorage

A. Not more than one vessel may be moored in a stall at any one time except with the prior consent of the Port Director. The Port Director may permit multiple occupancy of a single stall or float area if the Port Director determines that multiple occupancy would be safe and would facilitate maximum use of Port Facilities.
B. 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.
C. 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 in the Bethel Tariff.
D. If a person utilizing moorage facilities owns or operates more than one boat which may from time to time be moored to the float, the moorage charge shall be based on the applicable rate as set by the Bethel City Council.
E. A person who owns or operates more than one vessel is permitted to lease only one exclusive stall unless there is no waiting list for the size of exclusive stall required by the second vessel. The second or other vessel(s) owned or operated by such a person shall be accommodated on a transient basis.

14.05.070 Reservations

Vessels are requested to submit reservations for berth with the Port of Bethel as far in advance as possible, but not less than five (5) working days prior to expected arrival, subject to final confirmation of berth arrangements forty-eight (48) hours in advance of expected time of docking. Any changes in expected time of arrival must be reported promptly. Vessels which fail to notify the Port of Bethel of cancellation of a scheduled call at least five (5) working days prior to its expected arrival shall be subject to a charge of one-half the dockage rates provided in the Bethel Tariff.

14.05.080 Rights not Exclusive

Berth assignments shall include only the right to dock vessel at the assigned berth and to assemble and distribute the cargos of such vessel over, through or upon the assigned area or facility, subject to the provision that when the assigned area or facility is not required in whole or in part for the use of the vessel, the Port Director or his designee may make temporary assignments of the berth, wharf, wharf premises or other facility, or any part thereof, to any other vessel.

14.05.090 Preferred Vessels

Common carriers will 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 of fuel. However, after the fueling operation is completed, the subject vessel no longer has priority. When more than one (1) vessel is brought up the river pilot together, the first (1st) vessel arriving at the pilot bar shall have first (1st) berthing with the port cargo dock.

14.05.100 Safe Condition of Vessel

A. To qualify or remain qualified for moorage space a vessel must:
    1. At all times meet federal, state and local laws which include those pertaining to navigational and safety equipment;
    2. Have a fixed propulsion system and have sufficient motor power to permit the vessel to be maneuvered and controlled safely while transiting, entering or leaving the Port of Bethel under wind and water conditions which are not unusual;
    3. Be completely seaworthy and ready for immediate cruising in local waters; and
    4. Shall not discharge sewage into the waterways of the Port of Bethel.
B. Whenever the Port Director has probable cause to believe that a vessel is not qualified under the conditions of this section, he or she may require, upon seventy-two (72) hours' notice to the owner or operator of any such vessel, that such vessel demonstrates that it is or remains qualified. An exception may be made where repairs are being diligently pursued or where other extenuating circumstances prevent demonstration of qualification, but such exception shall be for only a reasonable time, considering the circumstances.

C. The Port Director may refuse mooring space to any vessel which does not qualify; it shall be a condition of every moorage agreement that any vessel authorized to moor in the Port of Bethel shall remain qualified so long as it remains in the Port of Bethel. The Port Director may terminate the moorage agreement for any mooring space which is occupied by a vessel which is authorized to occupy such space, but which vessel is not qualified in accordance with this section. Upon failure of a vessel to qualify, the Port Director may require, upon notice to the owner or operator of such vessel that the moorage agreement has been terminated, that such vessel is illegally moored and must be removed from the Port of Bethel within seven (7) calendar days. Any such vessel remaining after the time specified in the notice shall be subject to impoundment or removal as a nuisance under Chapters 04.08 through 04.10.

14.05.110 Denial of Facilities, Equipment or Services

A. When moorage facilities are crowded, the Port Director may refuse mooring facilities to houseboats, floats, scows, rafts, pile drivers, and other cumbersome floating structures.
B. The Port Director may refuse moorage to any vessel which is or may become or create a fire hazard or otherwise become a menace to the safety or welfare of other boats or their occupants.
C. As a condition to permitting a vessel access to mooring facilities, the Port Director may require satisfactory evidence of seaworthiness of the vessel or evidence of adequate insurance coverage.
D. The Port Director may refuse moorage facilities or other services or equipment to any person or vessel in violation of the provisions of this chapter or delinquent in the payment of any authorized fee or charge.
E. An owner or operator of a vessel may not fail or refuse to remove the vessel from any facility in the Bethel Ports and may not cause or permit the vessel to be moored, tied, affixed, or located adjacent to any Port Facilities in the Bethel harbor after the Port Director has notified the owner or operator of the vessel that moorage or mooring facilities are refused, terminated, or withdrawn.
    1. Notice of refusal, withdrawal, or termination of facilities or other services or equipment to a vessel that is not registered may be given verbally by the Port Director and shall be effective immediately. Verbal notices will be followed by a written notice.
    2. Notice of refusal, withdrawal, or termination of moorage facilities to a registered vessel may be given by the Port Director verbally followed by written notice. Verbal notice relating to services and equipment shall be effective immediately. Verbal or written notice personally delivered to the owner or operator relating to the refusal, withdrawal, or termination of mooring facilities shall be effective twenty-four (24) hours after the time of delivery unless a later effective date is specified in writing.

3. Written notice of refusal, withdrawal, or termination of mooring facilities for a registered vessel may be mailed to the address designated on the registration information or may be posted in a conspicuous place on the vessel. A written notice that is posted or mailed shall be effective at 4:30 p.m. on the fifth (5th) day following posting or mailing of such notice.

14.05.120 Operation of Commercial Businesses

Except for vessel rentals or charters, or other businesses directly related to navigation or commerce on the sea, including fishing, no commercial businesses shall be allowed to operate in mooring spaces in the Port of Bethel unless recommended by resolution of the Port Commission and approved by both the Planning Commission and the City Council.

14.05.130 Houseboats

A. Houseboats must meet the following requirements to qualify for moorage within the Port of Bethel:
   1. All houseboats shall be restricted to space available on a Float. If such space is not available, those vessel owners requesting such moorage may be placed on a slip assignment waiting list.
   2. Maximum length allowed is forty (40') feet.
   3. Maximum beam allowed for one slip is sixteen (16') feet. Houseboats with beams over sixteen (16') feet, must reserve and pay for two (2) slips.
   4. Maximum height allowed from waterline to roof peak must not exceed two-thirds of vessel's beam measurement.
B. A houseboat is defined as any vessel capable of being used or maintained primarily as a residence.

14.05.140 Vessel liable for damage

Any vessel assigned a berth, wharf, wharf premises or other facility or attempting to use or using any of the facilities or services of the Port of Bethel shall be responsible and liable to the Port of Bethel for any damage occurring during their tenancy and occupancy, unless such vessel secures and furnishes the Port Director or his designee with adequate information and evidence fixing the responsibility and liability for any such damage on some other responsible person and such other person reimburses the Port of Bethel for any such damage. Upon the refusal, failure or neglect of any such vessel to accept responsibility and liability in the manner and under the circumstances aforesaid, the Port Director or his designee may immediately revoke the assignment to any such vessel without notice and may refuse the use of any wharf, berth, or other facility to any such vessel until the Port of Bethel has been fully reimbursed for any such damage. Anything contained in this section shall not be construed, nor is it intended, to be a sole remedy of the City.

14.05.150 Required Equipment

All watercraft or vessels shall carry the equipment required by any applicable United States laws or regulations as now or hereafter amended, and shall be numbered or designated in accordance with any applicable United States laws or regulations as now or hereafter amended. In the absence of extenuating circumstances, failure of any boat or vessel within the Port Facility to comply with applicable United States laws or regulations shall be a violation of this chapter.

14.05.160 Duties of Boat Owners

In addition to the duties of registration and identification as herein provided, every owner, master, operator or managing agent of any boat using the mooring or other facilities of the Port Facilities shall be obliged to use due diligence in performing the following requirements:

1. Use all reasonable precautions in keeping the boat in his or her charge in a reasonably clean and sanitary condition, with special attention to potable water and sanitary toilets.
2. Use all reasonable precautions in keeping the boat in her or his charge free from fire hazards of any type or nature.
3. Use all reasonable effort and precautions in keeping the boat in his or her charge well secured, securely moored with lines in reasonably fit condition, sufficiently pumped out at all times to keep the boat afloat, and to otherwise attend the needs of the boat to avoid need for attention by the Port Director.
4. Use adequate precautions to lock up and stow and otherwise safeguard all movable gear and tackle.
5. To promptly pay all charges and taxes assessed or levied either against the vessel or its owner, and all rentals and charges for utilities requested and ordered by the vessel occupant or its owner.
6. Supply and use adequate fenders to safeguard floats and vessels from chafing and other damages.

14.05.170 Unauthorized Bumpers Prohibited

No person may utilize in the Port of Bethel, float bumpers that are attached, permanently or temporarily, to the float facilities that are made from used tires, old fire hose, or similar materials. The owner or operator of a vessel assigned moorage space may only install standardized rubber or vinyl bumper of commercial manufacture as approved by the Port Director.

14.05.180 Manifests

Masters, owners, agents, or operators of vessels are required to furnish the Port of Bethel with complete copies of vessel manifests.

A. Required Information: All manifests must include, but are not limited to, the specifications listed:
   1. A list of all cargo, including company gear, empty containers or equipment, that is going to be loaded or unloaded at the Port Facility;
   2. A description of cargo, gross weight, quantities, shipper, consignee, destination port, originating port.
   3. Carrier information including the name of the carrier, vessel name(s) and arrival date.
   4. All manifests must be certified as correct by an authorized official of the company and must also designate the basis of weight or measurement on which the freight was assessed. In lieu of manifests, freight bills containing all information as required above may be accepted.

B. Time Due:
   1. Inbound Manifest: Must be furnished forty-eight (48) hours prior to the vessel's arrival.
   2. Outbound Manifest: Must be furnished twenty-four (24) hours prior to the vessels loading or unloading.
   3. Lighterage Vessels: with inbound or outbound cargo, must furnish the Port Director with a cargo manifest with estimated weights prior to loading or off-loading.

C. Revised Manifest: Revisions to the manifest shall be turned into the Port Director's office no later than twenty-four (24) hours after loading and unloading is completed.

D. Penalty for Failure to timely provide Manifest: Failure to submit a manifest as required herein may result in a fine of two hundred fifty ($250.00) dollars and a denial of Port use privileges. If the Port of Bethel or the City is required to provide personnel for the purpose of checking freight on or off any vessel at any Port facility, the master, owner, agent, or operator of said vessel shall be charged the hourly man-hour labor rate for Port personnel established under Section 2, Item 207 of the Bethel Tariff.

14.05.190 Sunken or Obstructive Boats

When any vessel or watercraft or obstruction has been sunk or grounded, or has been delayed in such manner as to stop or seriously interfere with or endanger navigation, moored boats or any harbor vessels, the Port Director may order the same immediately removed, and if the owner or other person in charge thereof after being so ordered does not proceed immediately with such removal the Port Director may take immediate possession thereof and remove the vessel or watercraft or obstruction, using such methods as in the Port Director's judgment will prevent unnecessary damage to such vessel or watercraft or obstruction, and the expense incurred by the Port Director in such removal shall be paid by such vessel or watercraft or obstruction or the owner or other person in charge thereof; and in case of failure to pay the same, the City may maintain an action for the recovery thereof.

14.05.200 Smoking Prohibited

No person may smoke while on Port Facilities unless in designated smoking areas. A person in violation of this section shall be required to leave the area and may be fined.

14.05.210 Fishing Prohibited

Fishing from the Petroleum Dock and the City Cargo Dock is prohibited.

14.05.220 Loading or Unloading Explosives

A. No explosive may be ~~transported~~ handled between the dock or seawall and vessel except with the permission of and pursuant to safety conditions imposed by the ~~Port Director~~ US Coast Guard. A special permit shall be obtained from the US Coast Guard before any explosives are placed on a Port Facility.
B. Upon the written permission of the Port Director, explosives may be handled only between the hours of 6:00 a.m. and 6:00 p.m. A safety watch shall be maintained at the expense of the cargo owner while explosives are being transported.
C. If the ~~transportation~~ handling of explosives cannot be completed between the hours of 6:00 a.m. and 6:00 p.m., the person in charge or control of the vessel shall cause such vessel to haul away from the dock or seawall and anchor in such part of the Port as may be designated by the Port Director until such time as the activity may continue under this section.
D. A red flag shall be displayed as a danger signal at the fore topmast head of the vessel while explosives are being transported between a vessel and the wharf.

14.05.230 Fires, Welding Activities

A. Bonfires and open fires are prohibited at the Port.
B. No person may leave a fire or flame unattended aboard a vessel in the Port of Bethel.
C. No person may store, deposit or leave on any float, dock or other Port of Bethel Facility any gasoline, lubricating oil or other combustible liquid of any nature or description, except for temporary purposes in conjunction with the loading or unloading of a vessel.
D. No person may bring welding equipment or engage in welding activity on Port Facilities without prior written permission from the Port Director.
E. A person using a torch or other flame-producing device in or upon any vessel, dock, float or other Port of Bethel Facility shall provide and have immediately available for use an approved fire extinguisher adequate for suppressing any fires that may result from the use of the flame producing device.
F. No person shall ignite or detonate fireworks within the boundaries of the Port of Bethel except by permit from the Port Director and Fire Chief.

14.05.240 Petroleum Products

A. It is unlawful for any vessel owner or owner's agent or any other person to spill or allow to be spilled any petroleum product within the Port of Bethel.
B. All vessels moored in the Port of Bethel shall be required to have aboard them at all times absorbent materials designed to soak up petroleum products.
C. Any person having knowledge of a petroleum spill within the Port of Bethel shall immediately report such spill to the Port Director, US Coast Guard or the Police Department (in that order).

14.05.250 Loading or Unloading Petroleum Products

A. A vessel berthed at the Petro Port or lying alongside another vessel so berthed may load gasoline or distillate only with the approval of the Port Director and only when the vessel is otherwise ready to depart. Delivery shall be made directly to the vessel from a motor vehicle, which shall leave the wharf immediately upon completion of the loading or unloading.
B. No person may possess or keep acids, coal oil, gasoline, distillate other liquid petroleum products or empty drums which previously contained such products on a wharf except by special permit issued by the Port Director.
C. No vessel loaded with oil which will flash below 110 degrees Fahrenheit may haul alongside a vessel, wharf or structure without prior permission from the Port Director.
D. A vessel engaged in the business of supplying fuel oil may haul or lie alongside a vessel on the Petro Dock only for so long as is required to discharge the fuel oil.
E. Each user of a wharf shall furnish an absorbent material approved by the Port Director for absorption of waste oil. When saturated, absorbent material shall be removed immediately from the Port.

14.05.260 Depositing Cargo or Other Property without Permission

No person may deposit cargo, merchandise, equipment, tools or other property upon any area of the Port without the permission of the Port Director or the lessee of that area of the Port.

14.05.270 Speed Limits

A. No person shall operate, or allow the operation by a person under his or her supervision or in her or his behalf, a boat, vessel or an aircraft in any area within 250 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 150 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.

14.05.280 Safety Ladders

A. Mooring to safety ladders is prohibited.
B. Mooring in a manner that blocks safety ladders in unassigned areas is prohibited.

14.05.290 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 mooring space.
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 is 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.

14.05.300 Tampering with the Facilities

A. No person may tap, connect, disconnect, or interfere with any water outlet, water pipe, water connection, telephone equipment, electrical outlet, or electrical device maintained or operated by the City in the Bethel Port without first obtaining the permission of the Port Director.
B. No person may remove, alter, damage, or interfere with any wharf, float, gangplank, ramp, or any other Port Facility operated by the City.

14.05.310 Violation/Penalties

A. Violation of any provision of this Title is an infraction subject to a fine. In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. If an offense is not listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges. These fines may not be judicially reduced.

~~Violation~~	~~Code Section~~	~~Fine~~
~~Failure to Register Vessel~~	~~14.05.010~~	~~$300~~

~~Improper/Incomplete Vessel Registration~~	~~14.05.010~~	~~$150~~
~~Mooring, Berthing, Attaching, etc., w/o Registration~~	~~14.05.020~~	~~$350~~
~~Failure to present US Coast Guard Documentation~~	~~14.05.020(C)~~	~~$150~~
~~Failure to provide necessary information for registration~~	~~14.05.020(C)~~	~~$150~~
~~Failure to timely notify Port Director of change of ownership~~	~~14.05.020(C)~~	~~$200~~
~~Failure to timely enter into new mooring agreement after change of ownership~~	~~14.05.020(C)~~	~~$300~~
~~Mooring where prohibited~~	~~14.05.020(D)~~	~~$150~~
~~Making False Statement~~	~~14.05.020(F)~~	~~$750~~
~~Providing Inaccurate information in a vessel mooring agreement or application~~	~~14.05.020(F)~~	~~$750~~
~~Failure to respond or denial of association with vessel~~	~~14.05.020(G)~~	~~$750~~
~~Subleasing Moorage Space~~	~~14.05.020(H)~~	~~$500~~
~~Allowing another to use moorage space~~	~~14.05.020(H)~~	~~$250~~
~~Mooring in undesignated space~~	~~14.02.030(B)~~	~~$200~~
~~Improperly securing vessel~~	~~14.02.030(C)~~	~~$250~~
~~Inadequate bumpers~~	~~14.02.030(D)~~	~~$350~~
~~Placement of mooring bits without authorization~~	~~14.02.030(E)~~	~~$300~~
~~Mooring alongside another moored watercraft without authorization~~	~~14.02.030(F)~~	~~$300~~
~~Improper use of floating dock~~	~~14.02.030(G)~~	~~$250~~
~~Floatplane moored at floating dock or Port Facility~~	~~14.02.030(I)~~	~~$500~~
~~Unauthorized storage of hazardous or explosive freight/material~~	~~14.02.030(J)~~	~~$1000~~
~~Improper use of Floating docks by small vessels~~	~~14.02.030(K)~~	~~$200~~
~~Refueling or while moored at a Port Facility~~	~~14.02.030(L)~~	~~$1000~~
~~Improper use/handling of hazardous materials or fuel by small vessel~~	~~14.05.030(L)~~	~~$1000~~
~~Improper refueling of vessels~~	~~14.05.030(M)~~	~~$1000~~
~~Mooring more than 1 vessel per stall~~	~~14.05.060~~	~~$500~~
~~Allowing another vessel to moor alongside~~	~~14.05.060(B)~~	~~$500~~
~~Refusal to move vessel at direction of Port Director~~	~~14.05.110~~	~~$1000~~
~~Operation of Commercial Business w/o Consent~~	~~14.05.120~~	~~$1000~~
~~Unauthorized Houseboat~~	~~14.05.130~~	~~$1000~~
~~Failure to keep vessel reasonably clean & sanitary~~	~~14.05.160(1)~~	~~$150~~
~~Failure to use reasonable precautions to keep vessel free of fire hazards~~	~~14.05.160(2)~~	~~$300~~
~~Failure to keep vessel secure~~	~~14.05.160(3)~~	~~$250~~

~~Failure to use adequate precautions to safeguard moveable gear and tackle~~	~~14.05.160(4)~~	~~$150~~
~~Failure to supply and/or use adequate fender~~	~~14.05.160(5)~~	~~$500~~
~~Use of unauthorized bumpers~~	~~14.05.170~~	~~$500~~
~~Incomplete Manifests~~	~~14.05.180~~	~~$250~~
~~Untimely Manifests~~	~~14.05.180~~	~~$250~~
~~Manifests not certified~~	~~14.05.180~~	~~$250~~
~~Manifests improperly certified~~	~~14.05.180~~	~~$250~~
~~Failure to timely remove sunken or obstructive vessel~~	~~14.05.190~~	~~$1000~~
~~Smoking on Port Facility~~	~~14.05.200~~	~~$150~~
~~Fishing in prohibited area~~	~~14.05.210~~	~~$150~~
~~Improper Loading/Unloading of Explosives~~	~~14.05.220~~	~~$1000~~
~~Failure to obtain proper authorization for transport of explosives~~	~~14.05.220(A)~~	~~$1000~~
~~Failure to obtain proper permit prior to placing explosives on any Port Facility~~	~~14.05.220(A)~~	~~$1000~~
~~Transporting explosives during non-designated hours~~	~~14.05.220(B)~~	~~$1000~~
~~Failure to maintain a safety watch while explosives are being transported~~	~~14.05.220(B)~~	~~$1000~~
~~Failure to haul away from Port~~	~~14.05.220(C)~~	~~$1000~~
~~Failure to or improper display of red flag~~	~~14.05.220(D)~~	~~$750~~
~~Bonfire or open fire on Port Facility~~	~~14.05.230(A)~~	~~$500~~
~~Leaving a fire or flame unattended~~	~~14.05.230(B)~~	~~$750~~
~~Storing, depositing or leaving gasoline, lubricating oil or other combustible liquid~~	~~14.05.230(C)~~	~~$1000~~
~~Bringing or engaging in welding activity without consent~~	~~14.05.230(D)~~	~~$1000~~
~~Using torch or other flame-producing device without proper fire suppression~~	~~14.05.230(E)~~	~~$1000~~
~~Igniting fireworks within the boundaries of the Port without a permit~~	~~14.05.230(F)~~	~~$1000~~
~~Spilling or allowing a spill of any petroleum product~~	~~14.05.240(A)~~	~~$1000~~
~~Failure to have absorbent materials aboard a vessel~~	~~14.05.240(B)~~	~~$700~~
~~Failure to report a petroleum spill~~	~~14.05.240(C)~~	~~$1000~~
~~Loading or unloading petroleum or distillate without permission~~	~~14.05.250(A)~~	~~$1000~~
~~Possession of acids, coal oil, gasoline, distillate, etc. on a wharf without permission~~	~~14.05.250(B)~~	~~$1000~~

~~Hauling alongside a vessel while loaded with oil with a flash below 110 degrees Fahrenheit~~	~~14.05.250(C)~~	~~$1000~~
~~Depositing cargo or other property without permission~~	~~14.05.260~~	~~$250~~
~~Basic Speed~~	~~14.05.270~~	~~$150~~
~~Mooring to a safety ladder~~	~~14.05.280(A)~~	~~$100~~
~~Mooring in a manner that blocks a safety ladder~~	~~14.05.280(B)~~	~~$250~~
~~Damaging, tampering with or removing life ring~~	~~14.05.290(A)~~	~~$300~~
~~Removal of seawall fence without permission~~	~~14.05.290(B)~~	~~$500~~
~~Modification of seawall fence without permission~~	~~14.05.290(E)~~	~~$500~~
~~Tampering with Port Facilities~~	~~14.05.300~~	~~$500~~

Violation	**Code Section**	**Fine**
Registration	14.05.010	$225
Mooring	14.05.020	$100- $1000
Violating Moorage Rules	14.05.030(B)	$200 - $1000
Exclusive/Reserved Mooring	14.05.040	$500
Open/Transient Mooring	14.05.050	$500
Multiple Boat Moorage	14.05.060	$500
Reservations	14.05.070	$50
Refusal to move vessel at direction of Port Director	14.05.110	$1000
Operation of Commercial Business w/o Consent	14.05.120	$1000
Unauthorized Houseboat	14.05.130	$1000
Required Equipment	14.05.150	$250
Duties of Boat Owner	14.05.160	$275
Use of unauthorized bumpers	14.05.170	$500
Manifests	14.05.180	$250
Sunken or Obstructive Boats	14.05.190	$1000
Smoking Prohibited	14.05.200	$150
Fishing in prohibited area	14.05.210	$150
Loading/Unloading of Explosives	14.05.220	$1000
Fires, Welding Activities	14.05.230	$750
Petroleum Products	14.05.240	$1000
Loading or unloading petroleum products	14.05.250	$1000
Depositing cargo or other Property	14.05.260	$250
Basic Speed	14.05.270	$150
Safety Ladders	14.05.280	$125
Seawall Fence	14.05.290	$425
Tampering with Port Facilities	14.05.300	$500

Each day that a violation occurs is considered a separate offense.

14.06 Tariff

14.06.010 Adoption of Tariff
14.06.020 Payments

14.06.010 Adoption of Tariff
The rates, charges, rules and regulations for wharfage, terminal storage, demurrage and other terminal services and privileges are set forth in the Bethel Port and Harbor Tariff as filed with the Federal Maritime Commission. The Bethel Port and Harbor Tariff may be amended from time to time by resolution of the City Council.

14.06.020 Payments

A. All tariff charges are due and payable in United States currency. Failure to pay invoices when due shall place the vessel, its owners or agents or the user of the Port Facilities upon a delinquent list. A vessel 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 vessel has been placed on the delinquent list, the past-due balance shall accrue a late charge at the rate of eighteen (18%) percent per annum on the unpaid balance and any applicable penalties.
B. No vessel may leave the Port before payment of all tariff charges incurred by that vessel, and such cargo as was discharged from or loaded upon that vessel, has been tendered to the Port Director, or such alternative arrangements as are satisfactory to the Port Director have been made.
C. An owner, shipper, consignee or agent for cargo discharged from or loaded upon a vessel shall pay the tariff charges incurred with respect to that cargo. Payment shall be made before such cargo leaves the Port.

14.07 Small Boat Harbor

14.07.010 Administration and Government of Harbor Facilities
14.07.020 Small Boat Harbor Defined
14.07.030 Conducting Transactions
14.07.040 Duties of Boat Owners and Operators
14.07.050 Vessel Restrictions
14.07.060 Securing of Auxiliary Vessels
14.07.070 Float Bumpers
14.07.080 Launch Ramp
14.07.090 No Wake Zone

14.07.100 Recreational Water Activity
14.07.110 Responsibility for Children
14.07.120 Cleaning Fish/Game
14.07.130 Garbage Facilities
14.07.140 Acts Requiring Port Director Approval
14.07.150 Prohibited Acts
14.07.160 Unlawful Disposal
14.07.170 Revocation of Privileges
14.07.180 Violation/Penalties

14.07.010 Administration and Government of Harbor Facilities

The small boat harbor facilities shall be under the administration of the Port Director who shall have the authority to classify and designate areas of the small boat harbor in accordance with the classifications of this title.

14.07.020 Small Boat Harbor Defined

The area of the Small Boat Harbor is outlined in Area B of Plat #82-13, filed on at the Recorder's Office in the Fourth Judicial District at Bethel, Alaska. The Small Boat Harbor includes, but may not be limited to, the entire channel, the turning basin and the moorage basin.

14.07.030 Conducting Transactions

All registration of boats, payments of fees, charges, and other port facilities business shall be conducted at the Port Office.

14.07.040 Duties of Small Boat Harbor Users

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.
C. 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.
D. 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.

14.07.050 Vessel Restrictions

A. No person may operate a vessel in the small boat harbor which has an overall length, beam, or draft in excess of that which may be safely operated within the harbor under tidal and other conditions present. A person who operates within the small boat harbor a vessel which exceeds or may exceed the limits for safe operations shall do so at the operator's own risk.
B. No person may operate a vessel within the waterway which does not meet all applicable requirements of the United States Coast Guard.
C. No person may operate a vessel with an outboard or inboard motor that is not equipped with an adequate exhaust muffler.
D. No person shall bring into, moor or berth within the Port Facilities any boat which his 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.
E. No vessels will be allowed to be more than one (1) beam's width from the dock.

14.07.060 Security of Auxiliary Vessels

No person may tie or attach a skiff, scow, raft, or any other auxiliary craft alongside, astern, or ahead of a vessel moored within the small boat harbor if such auxiliary craft will obstruct or interfere with the normal movement of any vessel or be likely to cause rubbing or chafing damage to any other vessel.

14.07.070 Float Bumpers

No person may utilize in the small boat harbors float bumpers that are attached, permanently or temporarily, to the float facilities made from used tires, old fire hose, or similar materials.

14.07.080 Launch Ramp

A. The City boat launch facility shall be open to the public.
B. The City of Bethel launching facilities shall be open to the public upon reasonable terms and conditions as provided by regulation.
C. It is unlawful to block access to either of the launch ramps or float facilities. "Blocking access" means leaving a boat, trailer or vehicle upon a launch ramp or float in such a position as to prevent the launching or retrieval of boats.
D. Persons blocking access to the ramp or float facilities shall be subject to a penalty as provided in section 14.07.170. Each one (1) hour for which the ramp or float is blocked shall be considered a separate offense for the purpose of penalties.
E. No person may utilize skids for the purpose of hauling out any boat. Trailers or other wheeled conveyances shall be used for launching or hauling out boats.

F. Boats may be hauled out only on the boat harbor loading ramp and only by using a trailer or other wheeled conveyance.
G. 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.
H. Short term parking is available for trailers.
I. Long term parking is available in designated areas and requires a fee as set out in the Bethel Fee and Rate schedule.
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 as parking areas. Vehicles and boat trailers parked in areas not designated and posted as parking areas may be removed and impounded.

14.07.090 No Wake Zones

A. The Port Director is authorized to establish no wake zones within the Bethel Small Boat Harbor as needed to protect the public and private property, and or public safety.
B. No wake zones may be established on a temporary or permanent basis.
C. Established no wake zones shall be marked with appropriate signage in a manner to provide reasonable public notice.
D. A violation of this section shall be punishable as provided in BMC 4.07.170.

14.07.100 Recreational Water Activity.

A. It is unlawful for any person to engage within the Small Boat Harbor in any recreational activity in which the body of the person comes into physical contact with water, including, but not limited to, swimming, wind surfboarding, paddle boarding or diving, unless written application is made and permission is obtained in advance from the Port Director.
B. Upon notification to the Port Director it shall be lawful for a person to engage within the Small Boat Harbor in the activity of diving unless the purposes for which the dive is being conducted are related:
    1. To the inspection, maintenance or repair of any vessel moored within the Small Boat Harbor, or of any equipment attached thereto; or
    2. To the inspection, maintenance, repair, construction or improvement of Small Boat Harbor facilities. All divers shall prominently display a diver's-down flag in the area in which the diving occurs with a minimum size of twelve inches by twelve inches. No diver shall be submerged below the surface of the water without providing an observer at the surface. All divers shall observe all appropriate diving safety precautions.

14.07.110 Responsibility for Children

No parent or other adult person responsible for the care or custody of any child under the age of sixteen (16.) years may permit that child to be on or near any dock or float within the Small Boat Harbor unless accompanied by an adult.

14.07.120 Cleaning Fish/Game
It is unlawful to dispose of any fish or other animal, or waste parts of fish or other animal, into the Bethel harbor system waters, so as to not attract birds which create a hazard with aircraft.

14.07.130 Garbage Facilities.
Objects too large to fit into the trash dumpster(s) located at the Small Boat Harbor shall be disposed of at the City Landfill by the owner at his/her own expense.

14.07.140 Acts Requiring Port Director Approval
The following acts are prohibited at the small boat harbor without the approval of the port director:

A. Major maintenance and repair work, including but not limited to sandblasting, welding, burning and outfitting;
B. Tapping, connecting, disconnecting, or interfering or tampering with electrical outlets, meters or devices installed within the small boat harbor facility;
C. Building any type of float, shed, floating boat shelter, or structure within the small boat harbor;
D. Moving or altering any wharf, float, gang plank, ramp or other facility;
E. Conducting any commercial business within the small boat harbor.
F. Storing of supplies, merchandise or other property of boat owners. Such storage, if approved, shall be limited to assigned space which shall only be granted after payment of appropriate storage fees.

14.07.150 Prohibited Acts
It is unlawful for any owner, master, operator or managing agent or other person to commit any of the following acts within the small boat harbor:

A. To operate or cause to be operated any boat in a reckless manner and in willful and wanton disregard for the safety of persons or property within the limits of the boat harbor.
B. To operate or cause to be operated any boat in a negligent manner likely to endanger the safety of persons or property, within the limits of the boat harbor.
C. To operate any boat in a manner which shall unreasonably or unnecessarily interfere with other watercraft or vessels or with the free and proper navigation of the waterways of the boat harbor.
D. To 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;

E. 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.
F. Create, become or maintain any nuisance.
G. To leave any boat, vessel or floating structure moored at any of the boat harbor facilities unattended while any fire is burning thereon, unless such fire is in a range, stove, space heater or furnace. The fuel flow to such range, stove, space heater or furnace shall not be controlled by a drip-valve carburetor, but rather by a safe control of a type approved by the port director. Any fire shall be deemed unattended unless the owner or operator is within 100 feet of the boat, or some person over the age of 18 years and capable of moving the boat or vessel is aboard or within 100 feet of the same.
H. To deposit, place, or leave any cargo, merchandise, supplies, freight, articles or other objects upon any float, ramp, decline, walk or other public place in the boat harbor excepting at such places as may be designated as loading and unloading spaces by the Port Director. Materials used in repairing or rebuilding boats shall not be stored on any float or dock.
I. To tap, connect, 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 boat harbor, without first having obtained the permission of the Port Director; or to interfere with or tamper with any wharf, float, gangplank, ramp or any other facility of the boat harbor.
J. To write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the City in the boat harbor without first having obtained permission of the Port Director. To disregard, deface, remove, tamper with, or damage any sign or notice posted by the Port Director.
K. Fail to register with the Port Director any boat prior to occupying the Small Boat Harbor facilities.
L. To land an aircraft or float plane, operate either within, or cause an aircraft or float plan to take off from the Small Boat Harbor or the entrance thereto.
~~M. Pump bilge water into the Small Boat Harbor.~~
N. To erect, place, post or maintain any advertising matter, sign or other printed matter other than legal notices on any part of the boat harbor facilities, without approval thereof first being obtained from the assembly. All unauthorized advertising and signs shall be removed by the port director.
O. To disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the port director relating to the use of mooring areas or other uses of the boat harbor.
P. To moor or anchor any boat, vessel or other floating structure within 200 feet of any of the float, dock facilities or entrances or exits of the boat harbor in such a manner as to obstruct access to the boat harbor or its float and dock facilities.

Q. To install or secure to any float, dock or stall, either permanently or temporarily, any bumper other than standardized pre-molded rubber or vinyl bumpers of a commercial manufacturer approved by the port director.
R. To conduct any commercially oriented business enterprise at the boat harbor facilities unless specifically authorized as provided under this title. Preparation and repair of a commercial fishing boat or its gear and the pick-up and discharge of charter passengers by boats or aircraft renting space in the boat harbor is not conduct of a commercially oriented business within the meaning of this subsection.
S. To allow dog(s) or any other animal to run at large. Dog(s) shall be on a leash and accompanied by the owner who shall be responsible for removing any offal left by the animal. To allow or permit any dog or animal to be tethered or restrained to any part of a float, or to permit any dog to urinate or defecate on the floats. Only the dogs of owners of boats legally moored in the harbor, or the dogs of the guests of such boat owners, shall be permitted on the floats, but then only when on a leash and for such minimum time as is necessary to go between the boat and shore.
T. 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 wheelchairs, and those conveyances used only to transport provisions to and from the boat.
U. Dump any offal or refuse 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.
V. Improperly Sstore any explosives, explosive gasses, gasoline, or any other flammable substance in drums, cans or other type of container within the Small Boar Harbor or a vessel located in the Small Boat Harbor facilities.
W. Refuse to comply with any lawful order of the Port Director or his designee.

14.07.160 Unlawful Disposal

It is unlawful to:

A. Dump garbage or trash into any boat harbor, harbor uplands or associated tidelands;
B. Abandon or leave old boats, hulks or wrecks within the Bethel harbor system;
C. Spill, dump, discharge or in any other manner dispose of flammable waste such as gasoline, lubricating oil or other consumable liquids into any boat harbor, uplands or associated tidelands; and
D. Leave or dispose of spoiled fish, bait or gear on the City floats. Vessel owners will tend to their gear promptly. Any failure to provide necessary cleanup action will be considered a nuisance.

14.07.170 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.

14.07.180 Violation/Penalties

Violation of any provision of this Title is an infraction subject to a fine. In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. If an offense is not listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges. These fines may not be judicially reduced.

~~Violation~~	~~Code Section~~	~~Fine~~
~~Boat unclean, unsafe or unsecure~~	~~14.07.030(A)~~	~~$150~~
~~Boat contains fire hazard(s)~~	~~14.07.030(A)~~	~~$500~~
~~Boat insufficiently pumped out to float~~	~~14.07.030(A)~~	~~$500~~
~~Failure to attend to requirements of boat~~	~~14.07.030(A)~~	~~$200~~
~~Failure to report movement of non-owned boat~~	~~14.07.030(C)~~	~~$500~~
~~Failure to report petroleum spill~~	~~14.07.030(D)~~	~~$250~~
~~Operation of vessel exceeding safety limits~~	~~14.07.040(A)~~	~~$500~~
~~Operating vessel not meeting US Coast Guard requirements~~	~~14.07.040(B)~~	~~$250~~
~~Operating vessel with inadequate exhaust muffler~~	~~14.07.040(C)~~	~~$150~~
~~Bringing unseaworthy vessel into SBH~~	~~14.07.040(D)~~	~~$250~~
~~Failure to mark sunken vessel or object~~	~~14.07.040(D)~~	~~$1000~~
~~Failure to timely mark sunken vessel or object~~	~~14.07.040(D)~~	~~$500~~
~~Failure to properly mark sunken vessel or object~~	~~14.07.040(D)~~	~~$500~~
~~Vessel more than on beam width from dock~~	~~14.07.040(E)~~	~~$100~~
~~Securing alongside, astern or ahead of moored vessel~~	~~14.07.050~~	~~$250~~
~~Utilizing improper float bumpers~~	~~14.07.060~~	~~$150~~

~~Blocking access to launch ramps~~	~~14.07.070(C)~~	~~$100~~
~~Blocking access to float facilities~~	~~14.07.070(C)~~	~~$100~~
~~Use of skids for hauling out of vessel~~	~~14.07.070(E)~~	~~$175~~
~~Failure to properly haul out vessel~~	~~14.07.070(F)~~	~~$175~~
~~Blocking launching area~~	~~14.07.070(G)~~	~~$100~~
~~Failure to timely remove vehicle and/or boat trailer from launching area~~	~~14.07.070(J)~~	~~$150~~
~~Basic Speed (No Wake Zone)~~	~~14.07.080~~	~~$125~~
~~Swimming, wind surfing, other recreational activity in small boat harbor~~	~~14.07.090~~	~~$200~~
~~Diving without permission~~	~~14.07.090~~	~~$250~~
~~Improper care or custody of child(ren)~~	~~14.07.100~~	~~$200~~
~~Improper disposal of fish/game~~	~~14.07.110~~	~~$175~~
~~Improper trash disposal~~	~~14.07.120~~	~~$100~~
~~Major maintenance/repair without authorization~~	~~14.07.130(A)~~	~~$500~~
~~Interfering with or utilizing electrical devices without authorization~~	~~14.07.130(B)~~	~~$750~~
~~Building float, shed, or other structure without authorization~~	~~14.07.130(C)~~	~~$250~~
~~Moving or altering wharf, float, or other facility without authorization~~	~~14.07.130(D)~~	~~$300~~
~~Conducting unauthorized commercial business~~	~~14.07.130(E)~~	~~$500~~
~~Unauthorized storage~~	~~14.07.130(F)~~	~~$100~~
~~Operate vessel is reckless, negligent or dangerous manner~~	~~14.07.140(B)(C)(E)~~	~~$500~~
~~Unreasonable or unnecessary interference~~	~~14.07.140(D)~~	~~$500~~
~~Improper disposal~~	~~14.07.140(F)~~	~~$750~~
~~Nuisance~~	~~14.07.140(G)~~	~~$250~~
~~Unattended Fire~~	~~14.07.140(H)~~	~~$1000~~
~~Unattended Cargo~~	~~14.07.140(I)~~	~~$200~~
~~Interfering or unauthorized use of utility~~	~~14.07.140(J)~~	~~$750~~
~~Unauthorized use of bulletin board~~	~~14.07.140(K)~~	~~$25~~
~~Failure to register~~	~~14.07.140(L)~~	~~$150~~
~~Land aircraft~~	~~14.07.140(M)~~	~~$500~~
~~Pumping bilge water into Small Boat Harbor~~	~~14.07.140(N)~~	~~$500~~
~~Unauthorized advertisements~~	~~14.07.140(O)~~	~~$50~~
~~Deface, remove, tamper with or damage signs or notices~~	~~14.07.140(P)~~	~~$75~~
~~Moor or anchor within 200 feet~~	~~14.07.140(Q)~~	~~$100~~
~~Improper installation or securing of bumper~~	~~14.07.140(R)~~	~~$75~~
~~Unauthorized commercial business~~	~~14.07.140(S)~~	~~$450~~

~~Animal at large~~	~~14.07.140(T)~~	~~$50~~
~~Failure to properly dispose of animal waste~~	~~14.07.140(T)~~	~~$50~~
~~Operating wheeled conveyance on a float~~	~~14.07.140(U)~~	~~$150~~
~~Improper disposal of offal or refuse~~	~~14.07.140(V)~~	~~$350~~
~~Improper storage of hazardous or flammable materials~~	~~14.07.140(W)~~	~~$350~~
~~Refusal to comply with order of Port Personnel~~	~~14.07.140(X)~~	~~$400~~
~~Improper refuse disposal~~	~~14.07.150~~	~~$300~~
~~Abandoning vessel or property~~	~~14.07.150(B)~~	~~$200~~
~~Improper disposition or handling of hazardous or flammable waste~~	~~14.07.150(C)~~	~~$500~~
~~Improper handling or disposition of fish, bait or gear~~	~~14.07.150(D)~~	~~$200~~

Violation	**Code Section**	**Fine**
Boat unsafe or unsecure	14.07.040(A)	$150
Boat contains or is a fire hazard(s)	14.07.040(A)	$500
Boat insufficiently pumped out to float	14.07.040(A)	$500
Failure to attend to requirements of boat	14.07.040(A)	$200
Failure to report movement of non-owned boat	14.07.040(C)	$500
Failure to report petroleum spill	14.07.040(D)	$250
Operation of vessel exceeding safety limits	14.07.050(A)	$500
Operating vessel not meeting US Coast Guard requirements	14.07.050(B)	$250
Operating vessel with inadequate exhaust muffler	14.07.050(C)	$150
Bringing unseaworthy vessel into SBH	14.07.050(D)	$250
Failure to mark sunken vessel or object	14.07.050(D)	$1000
Failure to timely mark sunken vessel or object	14.07.050(D)	$500
Failure to properly mark sunken vessel or object	14.07.050(D)	$500
Vessel more than one beam width from dock	14.07.050(E)	$100
Security of Auxiliary Vessels	14.07.060	$250
Utilizing improper float bumpers	14.07.060	$150
Blocking access	14.07.080	$100
Use of skids	14.07.080(E)	$175
Improper Vessel Haul-Out	14.07.080(F)	$175
Blocking launching area	14.07.080(G)	$100
Untimely Removal	14.07.080(J)	$150
Basic Speed (No Wake Zone)	14.07.090	$150
Recreational Water Activities	14.07.100	$150
Responsibility for Children	14.07.110	$125

Cleaning Fish/Game	14.07.120	$175
Improper trash disposal	14.07.130	$100
Major maintenance/repair without authorization	14.07.140(A)	$500
Electrical Devices	14.07.140(B)	$750
Building(s)/Construction within SBH	14.07.140(C)	$250
Moving or altering wharf, float, or other facility	14.07.140(D)	$300
Commercial Business	14.07.140(E)	$500
Storage	14.07.140(F)	$100
Reckless Operation	14.07.150(A)	$500
Negligent Operation	14.07.150(B)	$500
Interference with Watercraft	14.07.150(C)	$200
Nuisance Created	14.07.150(D)	$350
Littering	14.07.150(E)	$200
Unattended Fire	14.07.150(G)	$500
Unattended items	14.07.150(H)	$200
Improper use of Utilities	14.07.150(I)	$750
Unauthorized use of bulletin board	14.07.150(J)	$50
Failure to Register	14.07.150(K)	150
Aircraft or Float Plane in SBH	14.07.150(L)	$500
Pumping Bilge Water	14.07.150(M)	$500
Unauthorized advertisement	14.07.150(N)	$50
Tampering with Signs or Notices	14.07.150(O)	$75
Improper Mooring	14.07.150(P)	$100
Obstructing Access	14.07.150(Q)	$75
Commercial Activity at SBH	14.07.150(R)	$450
Animals at Large	14.07.150(S)	$50
Wheeled conveyance	14.07.150(T)	$150
Unlawful dumping	14.07.150(U)	$350
Explosives or Flammables	14.07.150(V)	$350
Noncompliance with lawful directive	14.07.150(W)	$1,000
Unlawful Disposal	14.07.160	$300

Each day that a violation occurs is considered a separate offense.

14.08 Nuisances

14.08.010 Nuisances Declared – Removal
14.08.020 Abatement
14.08.030 Custody of Nuisances
14.08.040 Notice
14.08.050 Post-Removal Hearing

14.08.010 Nuisances Declared - Removal

A. *Derelicts.* For the purposes of this Title and in the interest of the greatest use of the Facilities of the Port Facilities and the municipal waters by the general public, a vessel is a nuisance if:
   1. The vessel is in violation of the parking, mooring or traffic regulations of the Port of Bethel;
   2. Any rent, fee or charge due to the City for the vessel has not been paid within ninety (90) days of the rent, fee or charge due date;
   3. The vessel is not properly identified by name and/or number and the owner, operator or agent is not on board;
   4. The vessel causes an obstruction to navigation;
   5. The vessel is unfit, unseaworthy or maintained in such a manner as to make it liable to sink for lack of being pumped or other maintenance;
   6. The vessel is unqualified under the provisions of BMC 14.05.100 (Safe Condition of Vessel);
   7. The vessel constitutes a fire hazard; or
   8. The vessel is sunken or is in imminent danger of sinking.

B. *Other nuisances.*
   1. Refuse of all kinds, structures or pieces of any structure, dock sweepings, dead animals or parts thereof, timber, logs, piles, broom sticks, lumber, boxes, paint, empty containers and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature are hereby declared to be public nuisances, and it shall be unlawful for any person to throw or place in or cause or permit to be thrown, or placed any of the articles or substances named in this subsection in the Port Facilities or the municipal waters, or upon the shores thereof or in such position that the article or substance may or can be washed into said Port Facilities or municipal waters, either by high tides, storms, floods or otherwise.
   2. Nets, gear, and other material left on any float or dock for more than ninety-six (96) hours is hereby declared a nuisance.

C. Any person causing or permitting the nuisances to be placed as provided in this subsection shall remove the same and upon his or her failure to do so, the same may be removed or caused to be removed by the Port Director. When the Port Director has authorized such nuisances to be removed or stored commercially, all costs of such commercial removal or storage shall be paid by and recoverable from the person creating said nuisance. The abatement of any such public nuisances shall not excuse the person responsible therefore from prosecution under this section.

D. Upon the Port Director's written determination that a nuisance described in subsections (A) or (B) of this section exist that constitute a clear and present danger to the public health, safety or general welfare, the nuisance may be summarily abated by the Port Director according to BMC 14.08.020 without prior notice.

E. A vessel declared to be a nuisance is subject to abatement and removal from the Port of Bethel or other waterway by the City or its agents, without liability to the City or its agents for any damage done by virtue of the removal or for any of its consequences.
F. Vessels or other property declared a nuisance under this chapter that do not constitute a clear and present danger to the public health, safety and general welfare may be moved, impounded or disposed or according to the procedure provided in BMC 14.10.

14.08.020 Abatement
A. Nuisances described under this chapter constituting a clear and present danger to the public health, safety or general welfare may be summarily abated and are not subject to the notice requirements of BMC 14.08.040.... or the pre-impoundment hearing requirements of section 14.10.050(C). Nuisances constituting a clear and present danger to the public health, safety or general welfare are subject to the post-impoundment hearing requirements of 14.10.060.
B. Vessels declared nuisances that do not constitute a clear and present danger to the public health, safety or general welfare may be removed, impounded and disposed of as provided in sections 14.08 through 14.10.
C. Other nuisances under this title may be impounded, disposed of by destruction, private sale or any other means deemed reasonable by the Port Director. The City holds no liability to the owner of the nuisance for the disposition of the nuisance.

14.08.030 Custody of Nuisances
The Port of Bethel shall not accept ownership or custody of sunken or derelict vessels or nuisance as declared under this title unless expressly accepted by the Port Director in writing.

14.08.040 Notice
When action is taken to impound, remove, or otherwise abate a nuisance vessel or property, notice of such action shall be placed on the vessel or property if possible, and within twenty-four (24) hours a copy of the notice shall be personally delivered or placed in the US mail addressed to the owner of the vessel or property. The notice shall include the following substantive provisions:

ATTENTION: The vessel _____ or _____ property has been impounded/removed/abated by the City of Bethel Port Director as a public nuisance for the following reasons:

_____

As the owner of the vessel/property you have the following options (those that apply are checked):

☐ The vessel/property has been impounded and you may recover possession of the vessel/property by paying to the person having custody of the vessel/property the towing, storage, and other charges that may have accrued. The vessel/property is at the following location: _____

☐ The vessel/property has been removed and you may recover possession of the vessel/property at the following location: _____

_____

☐ The vessel/property has been destroyed. You may direct any inquiries to the City of Bethel Port Director.

☐ The following action has been taken, and any option you may have is described below: _____

_____

If you believe the vessel/property was improperly impounded, removed, or otherwise abated, you may:

i. In the case of an impoundment, recover possession of the vessel by paying any towing, storage, or other charges that have accrued, and you may claim a refund or reimbursement by filing a demand (on a form provided by the City) for an administrative hearing before a hearing officer as to whether the Port Director had a sufficient factual and legal basis to impound the vessel; or
ii. In the case of an impoundment, you may demand return of the vessel without paying the towing, storage, or other charges by filing a demand (on a form provided by the City) for an administrative hearing before a hearing officer as to whether the Port Director had a sufficient factual and legal basis to impound the vessel; or
iii. You may in any other case file a demand (on a form provided by the City) for an administrative hearing before a hearing officer as to whether the Port Director had a sufficient factual and legal basis to impound, remove, or abate the vessel or property.

14.08.050 Post-Removal Hearing

A. If demand is timely made, the owner or person entitled to possession of the vessel or property is entitled to an administrative hearing to determine whether there was a sufficient factual and legal basis for the action to impound, remove, or otherwise

abate the item in question. To be entitled to such a hearing, a written demand must be filed with the ~~City Clerk~~ Port Director:

1. Within five (5) workdays after you learned or reasonably should have learned that your vessel or property was impounded, removed, or otherwise abated or
2. Within fifteen (15) workdays after the City mailed notice to the vessel/property owner of the action taken, whichever is earlier.
3. If you fail to make a timely request for a hearing you will lose all right to challenge the sufficiency of the basis for the action taken.

B. The hearing will be held within seven (7) calendar days after the filing of a written demand, not including Saturdays, Sundays and City holidays, unless the person demanding the hearing waives a speedy hearing.

C. The hearing officer shall not be bound by formal rules of evidence. A copy of the Port Director's written determination that a public nuisance exists will constitute prima facie proof of a sufficient factual and legal basis for the action. The burden will be on the vessel owner to prove by a preponderance of the evidence that there was not sufficient factual or legal basis for impounding, removing, or otherwise abating the vessel or property.

D. At the conclusion of the hearing, the hearing officer shall prepare a written decision, including the reasons for the decision. A copy of such decision shall be provided to the person demanding the hearing and the owner of the vessel or property. The hearing officer's decision in no way affects any criminal charges that may be pending. The decision of the hearing officer is final and may only be appealed to the Superior Court.

E. A determination by the hearing officer that there was not a sufficient factual or legal basis for the action taken will require the release of the vessel to the owner or other person entitled to possession without payment of the towing, storage, or the accrued charges, and will entitle the person to a refund or reimbursement by the City if the charges have already been paid. If the hearing officer determines there was a sufficient factual and legal basis for the action taken, the Port Director may proceed to dispose of the vessel by sale according to BMC 14.10.090 or the Port Director may destroy or otherwise dispose of the vessel or property without sale if he makes a good faith determination that the value of the vessel or property does not exceed the costs of towing, storage, sale, and other harbor charges accrued against the vessel or property.

14.09 Abandoned/Derelict Property

14.09.010 Abandoned/Derelict Property
14.09.020 Removal of Abandoned Property
14.02.030 Floating Objects
14.09.040 Lost, Abandoned or Stolen Property

14.09.010 Abandoned/Derelict Property
Any vessel or object in the Port of Bethel or in any waterway that is abandoned may be impounded, sold or otherwise disposed of as provided in 14.10. A vessel or object is considered abandoned if the owner, master, operator or managing agent has failed to register or pay moorage or service fees for the vessel or object as is required under this chapter.

14.09.020 Removal of Abandoned Property
Any nets, gear, tanks, lines and other property which is deposited, stored, or otherwise placed on any of the small boat harbor facilities or other Port Facilities without a permit for a period of 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 14.10.

14.09.030 Floating Objects
All vessels, watercraft, logs, piling, building material, scows, houseboats or any other article of value found adrift in the waterways of the Port of Bethel may be taken in charge by the Port Director and may be subject to the reclamation by the owner thereof on the payment to the City of any expenses incurred by the City, and in case of a failure to reclaim within ninety (90) calendar days, may be sold or disposed of as abandoned property.

14.09.040 Lost, Abandoned or Stolen Property
The Port Director may assume custody of apparently lost, abandoned or stolen vessels or property found within all port facilities and shall dispose of it pursuant to section 14.10, except that the Port may recover the costs incurred by it for recovery and storage of the vessel or property, if any, from the proceeds of sale. If the vessel or property is timely claimed by the owner, the Port may require reimbursement for the costs incurred prior to releasing the property or vessel.

14.10 Impoundment

14.10.010 Authority to Impound
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14.10.100 Other Disposition
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14.10.120 Interference with Impoundment Prohibited
14.10.130 Additional Remedies

14.10.010 Authority to Impound
A. The Port Director may impound a vessel that is in violation of this Title.
B. The Port Director may, pursuant to this section impound a boat by immobilizing it or removing or having it removed from the water and placed in City or commercial storage with all expenses and risks of haul-out and storage to be borne by the owner of such vessel or property.

14.10.020 Effective Date of Impoundment
An impoundment is effective when a written order of impoundment is placed on a vessel. An order of impoundment shall identify the vessel, state the reasons for impoundment, and be dated and signed by the Port Director or their authorized designee. An impounded vessel may be immediately towed or otherwise removed upon the order of the Port Director. Nothing in this section shall be construed to prevent the City from using alternatives to impoundment, including without limitation, removal or other means to abate an issue.

14.10.030 Securing Impounded Items
Any vessel or obstruction impounded by the Port Director shall be secured by chaining or otherwise mooring the same to a work float or other suitable stationary object or by removing, or having it removed, from the water and placed in City or commercial storage with all expenses and risks of haul-out and storage to be borne by the owner or other person responsible for such vessel or obstruction.

14.10.040 Storage Charges
Any impounded vessel or the owner, master, operator or managing agent thereof, shall be subject to and liable for a storage charge set by the Port Commission and shall be subject to and liable for all costs incurred by the City by reason of the impounding or removal.

14.10.050 Notice to owner
A. Except as provided in 14.08.010, the owner of a vessel or person entitled to possession of the vessel has the right to a pre-impoundment administrative hearing to determine whether there is probable cause to impound the vessel if the owner or person entitled to possession of the vessel files a written demand for a hearing with

the Port Director within ten (10) calendar days of the notice required by this section being mailed.

B. At least ten (10) calendar days prior to impounding any vessel or property, the City shall cause to be posted on the vessel or property, in the Port Director's office, the City Clerk's office and on the bulletin board at the entrance of the United States Post Office, notice of such action to be taken by the City. A copy of the notice shall be mailed to the owner, master or registered agent of the vessel at their last known address.

1. Contents of Notice. The notice of proposed impoundment or the notice of impoundment shall contain the following information:
   a) A description of the vessel or obstruction, its name and number, if any, and its location;
   b) The name and address of the owner, if known;
   c) The grounds for impoundment and, if the boat or obstruction has been impounded, the date of such impoundment;
   d) Statement that if a written request for a hearing is filed with the Port Director at the Port Director's office within ten (10) calendar days after the completion of service of the notice, a hearing will be conducted within seven (7) calendar days to determine whether there is a cause to impound the boat or obstruction or, if the boat or obstruction has been impounded, whether the impound was proper under applicable local, state or federal law, ordinances, rules and regulations, unless the right to a hearing within such seven (7) day calendar day period is waived;
   e) Statement that the right to a hearing shall be deemed waived if not timely requested as provided herein and statement that upon the waiver of the right to a hearing, the Port Director may proceed with impoundment and disposition of the vessel or obstruction by sale, destruction or other disposition as authorized by this Title;
   f) The notice of proposed impoundment shall state that if the vessel or obstruction is impounded and is not redeemed within thirty (30) calendar days after the date of service of notice of such proposed impoundment, title to the vessel or obstruction, and its contents, shall vest in the City and the vessel or obstruction, and its contents, will be sold or otherwise disposed of as provided in this Title;

C. Pre-impoundment administrative hearing. As to any vessel or property proposed for impoundment pursuant to this chapter by or at the request of the City, its agents or employees, a person in lawful possession of the vessel or property has the right to a pre-impoundment administrative hearing to determine whether there is probable cause to impound the vessel or property if such person files a written demand, on forms so provided for such a hearing, with the City within ten (10) calendar days after such person has learned or reasonably should have learned such vessel or

property will be impounded or within ten (10) calendar days after the mailing of the notice required by section 14.08.040 whichever occurs first.

D. Conduct of hearing. A hearing shall be conducted before a hearing officer within seven (7) calendar days of receipt of a written demand therefore from the person seeking the hearing unless such person waives the right to a speedy hearing. The hearing officer shall be someone other than the person who will direct the impounding and storage of the vessel or property. The sole issue before the hearing officer shall be whether there is probable cause to impound the vessel or property in question. "Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was a breach of local, municipal, state, or federal law or regulations rendering the vessel or property subject to impoundment. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vessel or property. The Port Director shall carry the burden of establishing that there is probable cause to impound the vessel or property in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision and the reasons therefore shall be provided to the person demanding the hearing and the owner of vessel or property if such owner is not the person requesting the hearing. The hearing officer's decision in no way affects any civil proceeding in connection with the impoundment in question and any civil charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the owner, operator, master, or managing agent to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right to such hearing.

E. Determination of Probable Cause. The hearing officer shall only determine that as to the vessel or property in question either that there is probable cause to impound the vessel/property or that there is no such probable cause. In the event that the hearing officer determines that there is no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the owner, operator, master or managing agent and to the Port Director. In the event that the hearing officer determines that there is probable cause, the hearing officer shall prepare and date a certificate of probable cause, copies of which shall be given to the owner, operator, master or managing agent and the Port Director. Upon receipt of such certificate of probable cause, the Port Director may proceed with impoundment and disposition of the vessel or property by removal, sale, or destruction as authorized by this chapter.

14.10.060 Right to Post-Impoundment Hearing

A. Unless otherwise provided, the procedure set forth in this section shall apply whenever a vessel or property has been impounded or removed or a nuisance

abated pursuant to BMC 14.08.020 (Abatement) or the pre-impoundment hearing procedures under BMC 14.10.050 (above) were not followed.

B. When a vessel or property poses a clear and present danger to the public health, safety or general welfare notice shall be personally delivered or mailed to the owner of the vessel/property, if the name and location of the owner is known, within twenty-four (24) hours after the vessel's impoundment, removal or abatement.

C. The owner of the vessel/property or person entitled to possession of the vessel or property has a right to a post-impoundment hearing if that person submits a written demand for a post-impoundment hearing to the Port Director within ten (10) calendar days after the City mailed the impoundment notice. The post-impoundment hearing shall be held within ten (10) calendar days after a written demand is timely submitted. The hearing officer shall be someone other than the persons who directed the impounding and storage of the vessel or property. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.

D. A post-impoundment hearing officer shall determine whether there was probable cause to impound the vessel or property. If the hearing officer determines that there was not probable cause to impound the vessel or property, the hearing office shall require the release of the vessel or property to the owner without payment of the towing, storage or other accrued storage, impoundment, and abatement fees or the hearing officer will entitle the owner to a refund or reimbursement if the owner already paid the fees. If the hearing officer determines that there was probable cause for the impoundment of the vessel or property, the Port Director may proceed to dispose of the vessel or property as provided in this Chapter.

E. Failure of the owner or person entitled to possession of the vessel or property to request or attend a post-impoundment hearing shall be deemed a waiver of the right to such hearing.

14.10.070 Deposit in Contested Cases

If an impoundment is contested, the aggrieved party may, in addition to the remedy of redemption as outlined in this section, provided such person has requested a hearing, obtain return of the boat or obstruction or contents impounded upon tender of one of the following forms of security pending outcome of the hearing to be conducted as provided in this section:

1) A surety bond in an amount equal to any fees due and owing plus costs incurred in impounding the boat or obstruction or contents at issue in the proceedings (including for storage and towing);
2) A cash deposit equal to ten (10%) percent of the sum of: the fees at issue, if any, plus the costs incurred in impounding the boat or obstruction or contents (including for storage and towing) at issue in the proceedings; provided, however, that if the amount of such loss and costs is One Hundred ($100.00) Dollars or less the entire amount shall be deposited. If the impoundment is found

after hearing to have been improper the security deposit provided under this subsection shall be released. Should the impoundment be found after hearing to have been proper, or in the event the person requesting the hearing has waived the right to a hearing, the cash security deposited pursuant to this subsection shall be applied to the amounts due. Any amount remaining after payment of all amounts due shall be returned to the person making the deposit without interest.

14.10.080 Notice of sale.
Any vessel or property impounded shall be held by the City for a period of not less than thirty (30) calendar days during which the City shall publish in a newspaper of general circulation in the City a notice describing the vessel (or property) in general terms, the name and number, if any, the name and address of the owner, master operator or managing agent, if known, or if not known shall so state the location of the vessel (or property) and the intention of the City to sell the same at public auction, on a day and at a place and time certain, not less than ten (10) calendar days prior to the sale, for cash to the highest and best bidder. At any time prior to the date of the auction, the owner, master, operator or managing agent may redeem the vessel (or property) by a cash payment of all City charges against the vessel or property.

14.10.090 Sale
The minimum acceptable bid shall be a sum equal to the City's charges against the vessel/property. The proceeds of the sale shall be first applied to the costs of sale, then to overdue fees and storage charges, and the balance, if any, shall be held in trust by the City for the owner of the vessel (or property) to claim; and if not claimed within one (1) year, the balance shall be deposited into the Port of Bethel enterprise fund. Upon the sale being made, the City shall make and deliver its bill of sale, without warranty, conveying the vessel to the buyer.

14.10.100 Other Disposition
If at the public sale there are no responsive bidders for the vessel or the Port Director determines the value of the vessel or property does not exceed the costs of towing, storage, sale and other Port of Bethel charges, the Port Director may use alternative means for disposition of the vessel or property. Such disposition shall be without liability on the City, including loss of use or profits or other consequential, direct or indirect damages.

14.10.110 Redemption
A person who presents to the Port Director satisfactory proof of ownership or right to possession of an impounded boat or obstruction or contents may redeem such vessel or obstruction or contents at any time before sale or other disposition by paying to the Port Director all fees, costs, and charges incurred or imposed by reason of

impoundment or removal, including towing, hauling, mooring, storage and notice. Storage charges shall be calculated at the current daily rate per foot plus Thirty ($30) Dollars per day if stored by the City, or such charges the City is required to pay for any commercial storage.

14.10.120 Interference with Impoundment Prohibited

A. Unless authorized by the Port Director, it is unlawful for any person to remove an impoundment order from a vessel or property upon which it has been posted.
B. Unless authorized by the Port Director, it is unlawful for any person to move a vessel or property after it has been posted with an impoundment order.
C. It is unlawful for any person to interfere with the Port Director or any other person under the Port Director's authority engaged in the impound, removal or abatement of a vessel or other property or public nuisance.

14.10.130 Additional Remedies

Nothing in this title shall preclude the city from pursuing any and all remedies otherwise available at law or in equity in addition to those set forth herein.

SECTION 3. Effective Date. This ordinance shall become effective upon passage by the Bethel City Council.

ENACTED THIS 9 DAY OF MAY 2017, BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.

Richard Robb, Mayor

ATTEST:

Lori Strickler, City Clerk