

CITY OF HOMER
HOMER, ALASKA

ORDINANCE 88-2

AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF HOMER REPEALING AND REENACTING TITLE
10, PORT AND HARBOR OF THE HOMER MUNICIPAL
CODE IN ITS ENTIRETY.

WHEREAS, for the past year, the Port/Harbor Commission, Harbor Staff and City Administration have reviewed and revised Title 10, incorporating public comments received after duly advertising the public hearings; and

WHEREAS, Harbor Standard Operating Procedures has been incorporated into the revision which has been in effect since 1976 but has never been codified previously;

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Title 10 of the Homer Municipal Code is hereby repealed in its entirety and reenacted to read as follows:

TITLE 10

PORT AND HARBOR

Chapters

10.04	General Harbor Provisions
10.08	Harbor Rules and Regulations
10.12	Harbor Fees, Mooring Assignments
10.14	Fish Dock Schedule of Rates
10.16	Port Rules and Regulations
10.18	Port Tariff Rates and Regulations
10.20	Annual Port and Harbor Rate Review

Chapter 10.04

GENERAL HARBOR PROVISIONS*

Sections:

10.04.010	Short Title
10.04.020	Scope-Administrative powers
10.04.030	Definitions
10.04.040	Harbormaster - power and duties
10.04.050	City not responsible for loss or damage
10.04.055	Mooring charges
10.04.060	Use of revenues
10.04.070	City docks - Prohibited usage
10.04.080	City docks - Other closure
10.04.090	State of Alaska lease and operations policy
10.04.095	State of Alaska lease - Restrictions incorporated by reference
10.04.100	Duty of vessel owner
10.04.110	Refusal of entry to harbor and/or facilities
10.04.120	Violation - Penalty

10.04.010. Short Title. This chapter shall constitute the Harbor and Boat Moorage Code of the City, and may be cited as such. (Prior code 37-100.1).

10.04.020. Scope - Administrative powers. This chapter shall be deemed an exercise of the powers of the City Council for the protection, safeguarding, and orderly moorage and control of boats, and for the protection and general welfare of the public, and all of its provisions shall be liberally construed for the accomplishment of the 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 chapter. (Prior Code 37-100.2).

* For statutory provision authorizing municipalities to provide for and regulate harbor facilities see A.S. 29.35.010(7)(10) and 19.35.250(a). Prior Ordinance History: Ordinance 5-230.1, 5-230.4, 70-11, 71-7, 71-11, 71-15, 75-3A, 75-10, 75-13, 75-15 and 77-14.

Editor's Note: Ord. 86-6(s) changed the name of this chapter.

10.04.030. Definitions. For the purpose of this chapter the following words shall have the meanings set forth below:

- a. "Beam" means greatest overall width of the vessel, including booms, spars, gins, or any fixed protuberances.
- b. "Derelict" means any vessel moored or otherwise located within the boundaries of the Homer Harbor which is forsaken, abandoned, deserted, or cast away, which by appearance gives evidence of being forsaken, abandoned, deserted, or cast away, or which in the opinion of any recognized marine occupation and which by any substantial evidence of neglect may be considered abandoned.
- c. "Homer Harbor" means all salt water or tide water lying within the boundaries of the City.
- d. "Length" means the overall length as measured from the furthestmost forward position, including booms, spars, gins, or any fixed protuberances, to the furthestmost after portion of the vessel, including the booms, spars, gins or any fixed protuberances.
- e. "Operator" means any lessee of a vessel, any master or captain who has actual physical use, control and/or possession of a vessel and who is in the employ of, or has a contractual relationship with the owner.
- f. "Owner" means the individual, partnership, corporation, or other legal entity holding legal title to the vessel.
- g. "Registration" means completing a moorage or use agreement with all necessary information concerning the vessel and vessel owner, indicating type and duration of service required, and full payment of all applicable fees and charges.
- h. "Reserved mooring" means having a specific assigned stall, the use of which, after payment of reserved mooring fees, takes precedence over the use of the stall by any other vessel.
- i. "Small Boat Harbor" means that area of water protected by breakwaters constructed by the federal government and by the line of the mean higher high water of the shoreline of the area protected by breakwaters, including docks, floats, berths, and other mooring facilities as operated by the City.
- j. "Transient" means any boat using the mooring space on a temporary basis or which does not have a specific reserved mooring space.
- k. "Vessel" means any boat, skiff, jitney, motor boat, ship, aircraft when water borne, boat house, floats, scows, rafts, pile drivers, or any floating structure or object used for recreational, commercial, or any other purpose upon the waterways, or moored at any place in any waterway within the boundaries of the City.
- l. "Waterway" means any water, waterway, lake, river, tributary or lagoon within the boundaries of the City. (Ord. 87-4(S) 31, 1987; Prior Code 57-100.4).

10.04.040. Harbormaster - Powers and duties. A Harbormaster, who shall have police powers, shall be appointed in the same manner as other city employees. The Harbormaster shall be assigned to enforce the provisions of this Code, maintain an accurate log of the registration data of all boats using Small Boat Harbor facilities, showing the date of

occupancy of berthing facilities, issue citations and impound vehicles, vessels, gear or equipment for violations of this chapter of the City Code, and collect or arrange for the collection of the established fees. The Harbormaster is granted the power and authority from time to time, as circumstances require, but without any obligation to do so, and without any obligation or liability on his part, or that of the City for his failure to do so, to replace defective mooring lines, to pump vessels which are in a dangerous condition for lack thereof, and to move any boat for the purpose of protecting such boat from fire or from other hazard or for the protection of other vessels or property therefrom. Whenever the Harbormaster shall perform or cause to be performed any of the actions authorized in this chapter or other emergency actions, after having given notice of the immediate need therefor, or having attempted to give such notice within the time limits prescribed by the exigencies of the situation, a fee as prescribed in Section 10.12.060 shall be assessed the vessel owner or operator. (Prior Code 97-100.6).

10.04.050. City not responsible for loss or damage. 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 Small Boat Harbor. The City shall be required to use reasonable care only for any items which have been impounded. (Prior Code 97-100.8).

10.04.055. Mooring charges. A schedule of mooring fees and other charges shall be established by the City Manager, with the approval of the City Council, and shall be subject to review as occasion demands. Notwithstanding the fees and charges provided in this chapter, the Harbormaster may negotiate special fees and charges with a vessel owner or operator where the owner or operator requires an exceptional volume of, or unique or unusual, services of facilities, and it is in the best interest of the City to enter into special arrangements. In such event the Harbormaster shall inform the City Manager of such special, negotiated arrangements. (Ord. 87-4(5) 62, 1987; Prior Code 97-100.3).

10.04.060. Use of revenues. All revenues from the Homer Boat Harbor shall be expended for the maintenance, operation and improvement of the Homer Boat Harbor. (Prior Code 97-100.10).

10.04.070. City docks - Prohibited usage. Use of the Homer City Docks by private individuals for noncommercial use is prohibited. (Prior Code 97-100.12).

10.04.080. City docks - Other closure. The City, through its City Manager or other duly constituted agent, 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. (Prior code 97-100.13).

10.04.090. State of Alaska lease and operations policy. It is the intent of the City to operate the Homer Small Boat Harbor in conformance with the conditions of the lease between the City and the State of Alaska and the operation policies promulgated by the State. (Prior code 57-100.15).

10.04.095. State of Alaska lease - Restrictions incorporated by reference. In compliance with the conditions of the lease agreement between the City and the State for the operation of the Homer Small Boat Harbor, any and all restrictions which are a part of said lease are incorporated into this code as though fully set forth herein. (Prior code 57-100-.24);

10.04.100. Duty of vessel owner. Every act or statement required to be made by a vessel owner or agent of such owner shall be made by the owner in person, or if by an agent, the necessity thereof shall be stated and shown; provided, that the operator of any vessel shall, for the purposes of this act, be considered the legal agent of the owner. It shall be the duty of the operators of all vessels tying up to the facilities in the Small Boat Harbor to register with the Harbormaster, giving the name, and ownership, registration, overall length, beam and draft of the vessels. (Prior code 57-100.17).

10.04.110. Refusal of entry to harbor and/or facilities.
a. The Harbormaster may, at his discretion, refuse the use of any port or harbor facility to boathouses, floats, scows, rafts, pile drivers, and other cumbersome floating structures, or to any boat, vessel, or floating structure which is or may become or create a fire hazard or otherwise become a menace to the safety and welfare of other vessels, their occupants, or the facilities.
b. For vessels that may be a hazard or becomes a menace to other vessels, their occupants, or city facilities, the Harbormaster, or the City Manager may require an operator or owner of a vessel to furnish evidence that there is currently in effect Liability Insurance in an amount satisfactory to the City by filing a certificate of insurance or other satisfactory evidence signed by an agent or officer of the insurance company and stating the effectiveness and expiration date thereof.
c. The City may refuse moorage or the use of port or harbor facilities to violators of this Code or persons in arrears of authorized fees and charges. (Prior code 57-100.19).

10.04.120. Violation - Penalty. Any violation of the provisions contained in this title or regulations adopted pursuant to this title shall be unlawful and punishable as provided in Section 1.16.010. of the Municipal Code (Ord. 67-4(5) 53, 1987; Prior code 57-100.22).

HARBOR RULES AND REGULATIONS*

SECTIONS:

- 10.08.010 Rule and regulation establishment authority
- 10.08.020 Rule infractions
- 10.08.030 Liability for damages
- 10.08.040 Use of floats and ramps
- 10.08.050 Stoves, fires, equipment, open flames, etc
- 10.08.060 Vehicles, other wheeled conveyances
- 10.08.070 Vessel operation and anchorage
- 10.08.080 Safety and sanitary regulations

10.08.010. Rule and regulation establishment authority.

The City Manager is empowered and authorized to establish additional rules and regulations governing the use of the Homer Small Boat Harbor, assignment of stalls, and the general conduct on, around and on harbor facilities and parking areas. Such rules and regulations shall become effective upon approval by the City Council. The council may provide for a different effective date. The City Manager shall print and make available to the public copies of regulations adopted pursuant to this section. (Prior code S7-200.1).

10.08.020. Rule infraction. Any abuse or infraction of the rules and regulations contained in this chapter of the City Code or adopted as provided in Section 10.08.010 is grounds for the immediate cancellation of mooring privileges and/or impoundment of vessel, gear or equipment. (Prior code S7-200.3).

10.08.030. Liability for damages. Any vessel or individual utilizing the City Port and/or Harbor facilities shall be responsible for any damages caused by such vessel or individual to those facilities. The City shall cause repairs for such damages to be made as determined to be in the best interest of the City and costs for such repairs plus a reasonable administrative fee shall be charged to the owner or agent of the vessel or individual causing the damage. (Prior code S7-200.5)

10.08.040. Use of floats and ramps. a. A portion of the available floats shall be posted and set aside for the use of transient vessels in such places and to such extent as the exigencies of the situation may permit. Moorage in all areas shall be under the jurisdiction of the Harbormaster. Transient vessels shall be changed in accordance with the schedule in Chapter 10.12.. Transient vessels may be assigned to use a stall assigned for reserved moorage when the stall is vacant, or a transient vessel may be required to tie abreast of another vessel(s) as available space requires. The Harbormaster may move, or require the owner to move a transient vessel as the situation may require.

* Prior ordinance history: Ordinance 5-230.1, 5-230.2, 5-230.4, 71-15, 75-15, 76-26, 77-12 and 77-14.

Editor's Note: Ord. 86-6(s) changed the name of this chapter.

b. No Person shall write or post any written or printed matter in any place within or on any Homer Harbor facilities, except upon bulletin boards constructed for the purpose and only after having obtained permission from the Harbormaster.

c. No Person shall disregard, deface, remove, tamper with or damage any sign or notice posted or installed by the Harbormaster.

d. All dogs or other animals will at all times be under the physical control of the owner or person in charge of the animal in accordance with Homer Municipal Code 20.08.020.

e. No person shall moor a vessel in a berth not assigned to him by the Harbormaster's Office. Vessels so moored may be impounded or relocated at the owners' expense.

f. All floats, docks and ramp approaches thereto shall be kept free and clear of any objects or items that are not appurtenances to the floats, docks, ramps and approaches thereto. Any such items found on the floats, docks, ramps and approaches are subject to impoundment. Impounded items will be released after proof of ownership and payment of applicable impound fee. Items not claimed within ninety (90) days after impoundment may be sold by the City of Homer and the proceeds of such sale shall be deposited in the Port and Harbor Fund.

g. Persons in charge or occupying any vessel shall at all times keep the floats and premises adjacent to such vessel in a neat and orderly manner, free from trash, refuse, garbage, repair parts, machinery, equipment and debris of all kinds. Any major modification or construction of vessels within the harbor will be cleared through the Harbormaster's Office. The Harbormaster may authorize materials to be left on the float during such projects.

h. No person shall tap, connect, disconnect, or interfere with any water outlet, water pipe, water connection, telephone equipment, electrical outlet, or electrical devise of any kind in stalls maintained or operated by the City of Homer in the Homer Boat Harbor without first having obtained the permission of the Harbormaster; or to interfere with or tamper with any wharf, float, gangway, ramp, or any other facility operated by the City of Homer.

i. No person shall use or disturb any harbor equipment or facilities; except fire extinguishers in a fire emergency and harbor carts. Carts may not be removed from the harbor or used on ramps at any time. Carts should be returned to areas adjacent to ramps after each use.

j. No person may deposit fish, fish carcasses, or viscera directly on any float, bull rail, ramp or other public dock area. Fish cleaning may only be accomplished at authorized cleaning areas or on vessels.

10.08.050. Stoves, Fires, Equipment, Open Flames, etc..

a. No person shall leave a stove or other heating equipment in unattended operation on a vessel moored within the Small Boat Harbor unless such equipment has been certified as safe for such unattended use.

b. No person shall leave any vessel within the Homer Boat Harbor unattended while fire or open flame is burning thereon.

c. No cutting or welding or use of open flame shall be allowed on any boat undergoing repairs, on or at any Homer City public Port facility, except in an area especially designated for such repair. However, at the Harbormaster's discretion, this requirement may be waived provided adequate fire fight ing equipment is physically located where the welding project is taking place.

d. No person shall use any fire fighting equipment located at the Small Boat Harbor for the purposes of pumping boats or for any purpose other than extinguishing fires. Any use of City fire extinguishers must immediately be reported to the Harbormaster.

10.08.060. Vehicles, other wheeled conveyances. a.

"Restricted Parking" areas will be established at such time and places as may be determined by the Harbormaster. "Restricted Parking" areas pertain to the parking of any vehicle or trailer, private or commercial. Violations of "restricted parking" areas will be fined according to the City Traffic Code.

b. No person other than an employee of the City of Homer or other person acting on city business, shall drive a vehicle upon the inside gravel slope of the Small Boat Harbor except in case of emergency. Parking or leaving boats, trailers, and/or other vehicles and equipment related thereto by the public shall be limited to specific areas designated for such use.

c. Hauling out boats or skids is prohibited unless approved in advance by the Harbormaster.

10.08.070. Vessel operation and anchorage. a.

All craft shall restrict their speed to two(2) m.p.h. - NO WAKE while inside the Small Boat Harbor entering or leaving. It shall be unlawful for any vessel to travel at a speed within any waterway causing a wake, wash, or wave action which will damage, endanger or cause undue distress to any other boat or occupant thereof, regardless of established speed limits.

b. No person shall operate a vessel in a reckless manner so as to endanger or be likely to endanger, life or property of any person or object on or in the water.

c. No person shall operate a vessel in any waterway under the influence of intoxicating liquor or drugs.

d. Sailboats may operate under sail or auxiliary power while in the harbor.

e. Unauthorized anchoring in open areas in the Small Boat harbor is prohibited.

10.08.080. Safety and sanitary regulations. a.

It shall be unlawful for any person to dump, or otherwise dispose of refuse, sewage, garbage, rocks, and/or debris of any kind or type whatever into the water of the Homer Boat Harbor and/or the entrance to said harbor. Deposit of fish viscera from sport fishing activities is authorized only at designated locations.

b. No person shall throw or otherwise cause to be deposited any gasoline, oil, hazardous waste, petroleum contaminated refuse or pumping or bilge containing petroleum products onto any part of or into the water of the harbor.

c. Pumping or storing fuel on floats is prohibited.

Chapter 10.12

HARBOR FEES, MOORING ASSIGNMENTS*

SECTIONS:

- 10.12.010 Mooring Fees - Collections.
- 10.12.020 Mooring Agreement.
- 10.12.030 Mooring Rates.
- 10.12.040 Electric Energy Rate.
- 10.12.050 Grid Use Fees.
- 10.12.060 Labor Charges.
- 10.12.070 Waiting List Fee.
- 10.12.075 Assignment of Stalls.
- 10.12.080 Assignment of Stalls - Transfer.
- 10.12.090 Pumping Services.
- 10.12.100 Ramp Use Charges.
- 10.12.110 Impound Vessels - Disposition Procedure.
- 10.12.120 Nuisances Declared - Removal.
- 10.12.130 Safe Condition of Vessel.
- 10.12.140 Report and Registration.

10.12.010. Mooring Fees - Collections. a. Moorage fees shall be paid in accordance with the published schedule. Delinquent accounts for stall rentals are cause to have the stall cancelled and are subject to the collection and other provisions prescribed in the City Credit Policy as adopted by the City Council and applicable state law.

b. All mooring, grid, energy and other miscellaneous harbor fees shall constitute a lien against the vessel, its tackle, gear, appurtenances and other similar property of the owner or operator. A lien for fees and charges remaining unpaid for thirty (30) days from the date due may be foreclosed by moving or otherwise securing the vessel. Pursuant to the procedures set forth in section 10.12.110 of this chapter. (Ord. 31-6 81, 1981, Prior Code 87-300.1).

10.12.020. Mooring Agreement. As a condition precedent to securing of moorage space each owner or authorized agent shall, in writing, agree to the removal of his boat by the Harbormaster in the event of delinquent fees. All cost of removal of any boat shall be at the owner's expense and risk. (Prior Code 87-300.3).

10.12.030. Mooring Rates. a. Any vessel utilizing the small boat harbor for mooring shall be charged a fee in accordance with the provisions of this chapter. All mooring fees, reserved or transient, must be paid in advance to the City for the period prescribed unless otherwise agreed to in writing by the Harbormaster. Payment for reserved moorage will only be

* Prior ordinance history: Ordinances 5-230.1, 5-230.2, 5-230.4, 70-2, 73-5, 75-3A, 75-13, 75-15, 76-1, 76-26, 77-5, 77-14 and 78-27.

accepted from the individual assigned the reserved stall. Any reduction in the moorage fee due to a substituted or amended moorage agreement is not applied retroactively and the owner or operator is not entitled to a refund or prorata adjustment of the moorage fees already due or paid. Any moorage agreement that expires will, after five days, automatically be changed a monthly rate retroactive to the expiration date. Unregistered vessels will also, after five days, automatically be changed a monthly rate retroactive to the date the vessel entered the harbor. Expired agreements and unregistered vessels will be charged as per Section 10.12.140..

b. The following schedule is effective at 10:01 AM the day immediately following passage of the ordinance codified in this section:

1. The annual moorage fee for reserved moorage and transient moorage privileges shall be eighteen dollars per lineal foot, based on the length of the float assigned or the overall length of the vessel (including all hull attachments such as bowsprits, davits, dinghies, etc.), whichever is greater.

2. The monthly transient rate for the period October through April will be two dollars and fifty cents (\$2.50) per foot/month. Vessels that are properly registered and pay all fees in advance will be charged two dollars (\$2.00) per foot/month.

3. The monthly transient rate for the period May through September will be three dollars and fifty cents (\$3.50) per foot/month. Vessels that are properly registered and pay all fees in advance will be charged three dollars (\$3.00) per foot/month.

4. The Semi-Annual transient rate will be .67 of the annual rate. Vessels that do not renew will automatically be charged the monthly rate.

c. Transient daily vessels shall be charged at the following rates including taxes:

	OCT-APRIL	MAY-SEPT.
LESS THAN 20'	8.00	10.00
20' - 29'	10.00	15.00
30' - 40'	12.00	20.00
41' - 54'	15.00	25.00
55' - 79'	20.00	30.00
80' - 110'	25.00	35.00
Greater than 110'	35.00	50.00

Vessels that properly register and pay all moorage fees in advance may deduct \$5.00/day from the daily rate.

d. The reserved stall payment shall be paid in full at the time the reserved stall agreement is executed. Any other arrangements are at the discretion of the Harbormaster and must be made in advance. A moorage sticker will be issued to the stall user and must be placed on the vessel windshield or other prominent place. (Ord. 87-10 51, 1987; Ord. 87-4(8), 1987; Ord. 86-12 51, 1986).

10.12.040. Electric Energy Rate. a. Long-term energy user shall be charged an availability fee of seventeen dollars per month, plus an electrical usage charge cost per kilowatt. "Availability" for the purpose of this section, means having the meter base at the berth with an operable meter.

b. Licensee shall notify the Harbormaster of any period when he will not occupy the stall, and the Harbormaster, upon payment of a twenty dollar (\$20.00) connect/disconnect fee, shall disconnect electrical service to license holders stall. Electrical service will be reinstated upon licensee's request and return to the harbor.

c. Transient vessels will be charged the following rates:

	<u>110 VOLT</u>	<u>220 VOLT PLUG</u>	<u>220 VOLT 3 PHASE</u>
Daily (or part thereof)	\$ 6.00	\$ 8.00	\$ 10.00
Monthly without meter	80.00	120.00	150.00
Monthly with meter	20.00 + meter rate	20.00 + meter rate	20.00 + meter rate

d. Vessels utilizing three-phase energy while on the wood or commercial grid shall be charged a ten-dollar (\$10.00) availability fee plus the electrical usage charge cost per kilowatt.

e. Vessels requiring conversion plugs may purchase them from the Harbormaster's Office. (Ord. 87-10 92, 1987; Ord. 88-7 (3) 31(part), 1988).

10.12.050. Grid Use Fees. a. All fees shall be computed for a twelve-hour period. The following grid use fees at the Small Boat Harbor shall become effective upon the adoption of the ordinance from which this section derives:

<u>IN FEET</u>	<u>WOOD OR COMMERCIAL GRID</u>
0- 59	\$.50 PER FT L.O.A.
60- 80	1.20 PER FT L.O.A.
81-100	1.50 PER FT L.O.A.
101-120	1.75 PER FT L.O.A.
121-140	2.00 PER FT L.O.A.

Vessels over 60' may not use the Wood Grid without specific approval of the Harbormaster. Vessels over 140' may not use the Commercial Grid without specific approval of the Harbormaster. Vessels that remain on either grid, after their scheduled tide, may be assessed a 50% surcharge for each unscheduled tide.

b. No grid use charge shall be less than one twelve-hour period. Vessels charged daily transient will be allowed free moorage while on the grid

c. Users of the Commercial Grid shall be required to deposit one 12-hour use charge at the time of making reservations. Deposit will be refunded if cancellation of reservation is at least forty-eight hours prior to scheduled use. The Harbormaster, during periods of low usage, may negotiate reduced rates for vessels on annual moorage. The reduced rates may only apply to tides of .0 and higher. (Ord 87-10 92, 1987; Ord. 88-7(3) 31(part), 1988).

10.12.060. Labor Charges. All work performed by the harbor staff as a result of an emergency, a request by the owner or operator of any vessel, moving vessels parked in unauthorized areas, or remove gear or debris in unauthorized areas shall be charged for at the rate of fifty dollars (\$50.00) per hour with a minimum charge of one half (1/2) hour, twenty-five dollars (\$25.00) plus any additional direct costs. (Ord. 87-10 94, 1987; Ord. 80-7(3) 61(part), 1986).

10.12.070. Waiting List. a. The Harbormaster shall establish and maintain a reserved stall waiting list or lists. The list(s) shall include the sign-up date, the name, address and telephone number(s) of the applicant, the stall size requested, any other information requested by the Harbormaster and payment of a fifteen dollar (\$15.00) fee. An applicant shall notify the Harbormaster in writing of any change of address or telephone number(s) immediately.

b. Any individual, partnership, corporation or governmental agency may apply for use of a reserved stall. All applicants, except government agencies, shall designate a single individual whose name shall appear on the waiting list and who shall be responsible for payment of all fees. Any change in the individual designated may result in the applicant's loss of priority on the waiting list, except as specifically provided in subsection f.

c. Separate lists may be maintained by the Harbormaster for the different stall sizes available in the small boat harbor. An applicant or existing reserved stall licensee may be placed on one or more of these lists.

d. The Harbormaster shall place applicants on the waiting list on a first-come, first-serve basis only upon receipt of all requested information and payment of the annual waiting list fee of fifteen dollars (\$15.00). The annual waiting list fee will be accepted only from the individual whose name appears on the waiting list. The fee is neither refundable nor creditable to berth lessees.

e. An applicant need not own or operate a vessel to be placed on the waiting list.

f. Upon the death of an applicant, the applicant's rank on the waiting list shall be transferred to the surviving spouse upon written request to the Harbormaster. (Ord. 84-7 (3) 66, 1987).

10.12.075. Assignment of stalls. a. A stall, on becoming available, shall promptly be made available to the next applicant from the top of the appropriate waiting list, as provided herein. The applicant may be assigned to an available stall upon completion and execution of the moorage agreement, payment of the appropriate moorage fee and providing proof, satisfactory to the Harbormaster, of vessel ownership, agreement to operate or intent to obtain a vessel within one year. In the later case, the moorage agreement will not be renewed without showing satisfactory proof of vessel ownership.

b. If applicant does not want to sign a Moorage Agreement within the time prescribed by the Harbormaster, after being offered a stall, he will be placed at the bottom of the Waiting List.

c. As a condition precedent to securing moorage space, each applicant shall, in writing, agree to the terms and conditions of the moorage agreement provided by the Harbormaster and provide the information requested on the moorage agreement. Providing false or misleading information on the moorage agreement is a ground for immediate termination of the moorage agreement.

d. The reserved stall is personal to the individual named as owner or operator on the moorage agreement. The stall is reserved only with respect to the vessel indicated on the moorage agreement. If the vessel is not in the reserved stall, the Harbormaster may at his discretion assign a transient vessel to the reserved stall. Neither the owner nor operator is entitled to payment for or reimbursement from the use of the reserved stall by the transient vessel.

e. A stall user who no longer has possession, control, or custody of the vessel or loses the vessel to fire, sinking or other casualty may continue to pay moorage fees with respect to the stall and retain reserved use for a period not more than one year from the date of sale, transfer or loss of possession of the vessel, so long as he replaced the vessel with another vessel of appropriate size for the stall assigned within such one-year period. Otherwise, the moorage agreement expires. Failure of the owner or operator to give notice in writing to the Harbormaster of the sale, assignment, transfer or loss of use, control and/or possession of a vessel occupying a reserved moorage space within fifteen (15) days of the loss or transfer is ground for immediate termination of the moorage agreement. (Ord. 87-4 (5) 87, 1987).

10.12.030. Transfer of stalls. a. No person may sell, lease, transfer, assign the moorage agreement for the use or control of the assigned stall to any other person or entity, or otherwise charge another person for the use of a stall. A "transfer" or assignment under this section shall include the sale of 25% or more of any vessel ownership interest held by a corporation, partnership, sole proprietorship or other entity. It is specifically understood that the stalls are operated by the City, which has the sole control of the assignment, transfer and use of the individual stalls.

b. Any person acquiring the vessel or any partnership or other interest therein, or if the owner is a corporation, any stock of the corporation, from an owner will not thereby acquire any right under the moorage agreement, or right to use the stall, except as specifically provided in subsection c.

c. Upon the death of any reserved stall user, reserved mooring privileges shall be transferred to the surviving spouse upon written request to the Harbormaster. (Ord. 87-4(6) 88, 1987).

10.12.090. Pumping Services. a. Pumping services shall be at a rate of thirty dollars (\$30.00) per day for electrical pumps.

b. Pumping services shall be a rate of fifty dollars (\$50.00) per hour for gas pumps. There shall be a minimum charge of one (1) hour for the use of gas pumps. (Ord. 81-10 69, 1987; Ord. 86-7(9) 81(part), 1986).

10.12.100. Ramp Use Charges. a. The principal intended use of the launch ramp is the launch and recovery of vessels. An authorized subsidiary use is the incidental, noncommercial loading or unloading of goods, supplies or materials.

b. The principal intended use of the inner harbor barge ramp is the commercial loading or unloading of goods, materials, equipment or personnel. An authorized subsidiary use is the loading or unloading of fishing gear and equipment or other use approved by the Harbormaster.

c. At the Harbormaster's discretion, reasonable restrictions may be placed on the use of any ramp owned or operated by the city.

d. Vessels that block portions of the launching ramp or loading floats, or vessels that are left unattended and delay departure from the area, may be charged an hourly fee of \$20.00 per hour for such use.

e. Vessels allowed to go dry on either the launch ramp or the barge ramp may be charged up to \$5.00 per foot for facility blockage and shall be charged repair costs as determined by the Harbormaster for any damage done to the facilities. (Ord. 87-4(S) 810, 1987).

10.12.110. Impounded vessel - Disposition procedure. a.

Impoundment of Vessels for Violations. The Harbormaster is hereby authorized to impound any vessel in the small boat harbor whose owner or operator is not aboard and which is not properly identified by name and/or number; or any vessel in the small boat harbor which is in violation of any of the parking, mooring or traffic regulations of the small boat harbor; or any vessel in the small boat harbor whose owner or operator has not paid the stall license fee or any other fee or charge due the City for the vessel by the due date of such fee or charge and such fee or charge is 30 days past due; or any vessel which has failed to qualify under 10.12.130 and whose owner or operator has failed to remove it in accordance with the notice given under 10.12.130. The Harbormaster may impound a vessel 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.

b. The owner or operator of any vessel impounded by the City shall be subject to and liable for a storage charge and shall be subject to and liable for all costs incurred by the City by reason of the impounding or removal.

c. At least ten days prior to impounding any vessel, the City shall cause to be posted on the vessel, in the Harbor Master'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 or operator of the vessel at his last known address, which address shall be the same as that furnished in accordance with the provisions of 10.12.140. The notice shall contain the name and/or number of the vessel, the name and address, if known, of the owner or operator and the location of the vessel.

d. As to any vessel proposed for impoundment pursuant to this chapter by or at the request of the City, its agent or employees, an owner or operator of the vessel has the right to a pre-impoundment administrative hearing to determine whether there is probable cause to impound the vessel if such person files a written demand, on forms so provided for such a hearing, with the City within ten days after such person has learned such vessel will be impounded or within ten days after the return of mail receipt of the notice required by subsection (c), whichever occurs first.

e. A hearing shall be conducted before a hearing officer designated by the City Manager within forty-eight hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the forty-eight-hour period. The hearing officer shall be someone other than the persons who will direct the impounding and storage of the vessel. The sole issue before the hearing officer shall be whether there is probable cause to impound the vessel 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 federal, local or municipal law or regulations, or any agreement entered into pursuant thereto, rendering the vessel 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. The Harbor Master shall carry the burden of establishing that there is probable cause to impound the vessel in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision and the reasons therefor shall be provided to the person demanding the hearing and the owner of the vessel if such owner is not the person requesting the hearing. The hearing officer's decision in no way affect any criminal proceeding in connection with the impound in question and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final and may only be appealed to the Superior Court. Failure of the owner or operator to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right of such hearing.

f. The hearing officer shall only determine that as to the vessel in question either that there is probable cause to impound the vessel 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 or operator and to the Harbormaster. 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 or operator and the Harbormaster. Upon receipt of such Certificate of Probable Cause, the Harbormaster may proceed with impoundment and disposition of the vessel by removal, sale or destruction as authorized by this chapter.

g. Any vessel impounded shall be held by the City for a period of not less than thirty days during which the City shall publish in a newspaper of general circulation in the City a notice describing the vessel in general terms, the name and/or number, if any, the name and address of the owner, or operator, if known, or if not known shall so state the location of the vessel 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 days prior to the sale, for cash to the highest and best bidder. At any time prior to the auction, the owner or operator may redeem the vessel by a cash payment of all City charges against the vessel.

h. The minimum acceptable bid shall be a sum equal to the City's charges against the vessel. The proceeds of the sale shall be first applied to the cost of sale, then to accrued stall license fees and charges, service fees, storage charges, attorney fees and costs, and other expenses provided for in this chapter, and the balance, if any, shall be held in trust by the City for the owner of the vessel to claim; and if not claimed within one year, the balance shall be deposited into the small boat harbor facilities fund. Upon the sale being made, the City shall make and deliver its bill of sale, without warranty, conveying the vessel to the buyer.

i. If at the public sale there are no bidders for the vessel, the City may destroy, sell at private sale or otherwise dispose of the vessel. The disposition is to be made without liability of the City, its employees or agents to the owner, master or any lien holder of the vessel. (Ord. 87-4(9) 311, 1987).

10.12.120. Nuisances declared -- removal. a. For the purposes of this title and in the interest of the greatest use of the facilities of the small boat harbor and the municipal waters by the general public, vessels in the small boat harbor and elsewhere on the municipal waters which are derelicts and unfit and unseaworthy or which are maintained in such manner as to make them liable to sinking for lack of being pumped or other maintenance, or which have been declared unqualified by the Harbormaster under the provisions of 10.12.130 or which are maintained in a manner as to constitute a fire hazard, and

sunken vessels and vessels in imminent danger of sinking, are hereby declared to be nuisances and subject to abatement and removal from the small boat harbor or other municipal waters, by the City or its agents, without liability of the City for any damage done by virtue of the removal or for any of its consequences.

b. Refuse of all kinds or any other obstructions or debris are hereby declared to be public nuisances, and it shall be unlawful for any person to place, or cause to be placed, any public nuisance in the small boat harbor or in the municipal waters, or on the shores thereof. Nets, gear, and other material left on any float or dock for more than twelve hours are hereby declared a nuisance. Any person causing or permitting the nuisances to be placed as aforesaid shall remove the same upon his failure to do so, the same may be removed or caused to be removed by the Harbormaster. When the Harbormaster 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 nuisances shall not excuse the person responsible therefore from prosecution hereunder.

c. Nuisances described under this section constituting a clear and present danger to the public health, safety or general welfare may be summarily abated. Vessels declared a nuisance under subsection a. which do not constitute a clear and present danger to the public health, safety or general welfare may be moved, impounded, and disposed of as provided in 10.12.130. Other nuisances under subsection b. to this section may be impounded, disposed of by destruction, private sale, or any other means deemed reasonable by the Harbormaster. Such disposition is to be made without liability of the City, its employees or agents to the owner, master or any lien holder of the nuisance.

d. The Harbormaster or the City Manager may require an operator or owner of a vessel to furnish evidence that there is currently in effect insurance in an amount satisfactory to the Harbormaster by filing a certificate of insurance or other satisfactory evidence signed by an agent or officer of the insurance company and stating the coverage and expiration date thereof. (Ord. 87-4(8) 812, 1987).

10.12.130. Safe condition of vessel. a. To qualify or remain qualified for moorage space a vessel must be seaworthy, must be equipped in accordance with 10.12.150, and must have sufficient motive power to permit the vessel to be maneuvered and controlled safely in and out of the small boat harbor under wind and water conditions which are not unusual and which do not constitute a hazard to small craft.

b. Whenever the Harbormaster has probable cause to believe that a vessel is not qualified under the conditions of this section, he may require, upon seventy-two hours notice to the owner or operator of any such vessel that such vessel demonstrates that it is or remains qualified. An exception shall 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 Harbormaster may refuse mooring space to any vessel which does not qualify; it shall be a condition of every stall agreement that any vessel authorized to moor at a stall in the small boat harbor shall remain qualified so long as it remains in the small boat harbor. The Harbormaster 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 Harbormaster may require, upon notice to the owner or operator of such vessel, that the stall agreement has been terminated, that such vessel be removed from the small boat harbor within not less than one week. Any such vessel remaining after the time specified in the notice shall be subject to impoundment or removal as a nuisance. (Ord. 87-4(8) 813, 1987).

10.12.140. Report and registration. Every owner or operator of any vessel using the facilities of the small boat harbor is hereby required to report to the Harbormaster to register his name, a current mailing address where he can, at all times, be served notices, the name and number of the vessel and other pertinent information, with the Harbormaster on forms to be provided for that purpose, and pay the required fees immediately but no later than two (2) hours after the vessel enters and moors anywhere in the small boat harbor or before using any harbor facilities, and shall execute an agreement providing for payment of license fees and other charges. Failure to so register and pay the required fees within the time specified shall result in loss of the opportunity to pay the reduced rate per day. (Ord. 87-4(8) 814, 1987).

Chapter 10.14
FISH DOCK SCHEDULE OF RATES

Sections:

- 10.14.010 Schedule of Rates.
- 10.14.020 Rules and Regulations.

10.14.010. Schedule of Rates. a. The following schedule of equipment rates shall be effective at 12:01 a.m. the day immediately following the passage of the ordinance codified in this chapter:

Annual Card Access Fee: \$75.00 per year (annual renewal fee)

Daily Card Access Fee: \$10.00 per day plus \$25.00 deposit

Card Replacement Fee: \$10.00 per occurrence.

Fish Dock Cranes: \$20.00 per hour for any crane.
Negotiated rate for more than 200 hours.

Ice: \$55.00 per ton, Auger delivered.
\$60.00 per ton, Pneumatic delivered.
Negotiated rate for 100 tons commitment.

Buyers Sheds/Cold Storage/Staging Area:
Negotiated

Cold Storage. \$200.00 per month; minimum two months.

Cold Storage Door Openings: \$.50 per minute.

Cold Storage Inspection: \$50.00 per hour.

Seafood Wharfage: \$2.50 per ton or fraction thereof.

b. The minimum per-hour charge for the cranes and cold storage inspection will be one-quarter hour (fifteen minutes). All additional charges will be on one-quarter-hour increments.

c. The City Manager has the authority to enter into negotiated contract sales for bulk purchases of ice for quantities exceeding one hundred tons and crane rental of more than two hundred hours.

d. The cold storage rate structure is for storage area of eight feet by ten feet. (Ord. 87-10 SS, 1987; Ord. 84-1(3) 31(part), 1984).

10.14.020. Rules and Regulations. a. The City Administration shall enact and promulgate all necessary rules and regulations to implement the schedule of rates and to collect Fish Dock revenues.

b. The City Administration shall have printed a sufficient number of copies of the schedule of rates approved and adopted by the City Council, and the same shall be available to the public at the offices of the Port Director and Harbormaster, and City Hall. (Ord. 86-8(3) 31(part), 1986).

Chapter 10.16
PORT RULES AND REGULATIONS

Sections:

- 10.16.010 Short Title
- 10.16.020 Scope-Administrative powers
- 10.16.030 Acceptance of rules
- 10.16.040 Advance charges
- 10.16.050 Berthing assignment
- 10.16.060 Delays, waiver in charges
- 10.16.070 Liability for loss or damages limited
- 10.16.080 Responsibility for property damage
- 10.16.090 Prepayment of charges
- 10.16.100 Definitions of terminal services
- 10.16.110 Manifests required
- 10.16.120 Charges-from whom collected
- 10.16.140 Right to furnish labor, services and equipment
- 10.16.150 Right to sell for unpaid charges
- 10.16.160 Right to refuse/remove freight-owner's risk
- 10.16.170 Freight in transit

- 10.16.180 Acceptance and handling of livestock
- 10.16.190 Tax assessments
- 10.16.200 Storage
- 10.16.202 Vehicle parking
- 10.16.210 Use of barge loading ramp
- 10.16.220 Use of beaches under city control
- 10.16.230 Dockage period and berth occupancy
- 10.16.240 Report and registration
- 10.16.250 Fish dock use

10.16.010. Short Title. This chapter constitutes the Port Code of the city, and may be cited as such. (Ord. 86-9(S) (part), 1986).

10.16.020. Scope-Administrative Powers. This chapter shall be deemed an exercise of the power of the City Council for the protection, safeguarding, berthing, freight handling, 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 the 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 chapter. (Ord. 86-9(S) (part), 1986).

10.16.030. Acceptance of Rules. The use of the wharf or facilities is an acceptance of this chapter and the terms and conditions of this chapter. (Ord. 86-9(S) (part), 1986).

10.16.040. Advance Charges. No advance charges will be paid except those which are normally applicable in the transportation of freight (such as freighting charges, storage charges if the storage was performed while articles were in transit, drayage charges, terminal and freight forwarding charges). No part of the cost of the articles shipped or received will be paid. (Ord. 86-9(S) (part), 1986).

10.16.050. Berthing Assignment. Berth assignment is granted only after prior application. The Port of Homer reserves the right to order vacation of premises or shift of vessel. (Ord. 86-9(S) (part), 1986).

10.16.060. Delays, Waiver in Charges. Delays in loading, unloading, receiving, delivering or handling freight arising from combinations, riots, or strikes of any person in the employ of the terminal operator, will not entitle owners, shippers, consignees or carriers of freight to waiver of wharf, terminal and/or advance charges. (Ord. 86-9(S) (part), 1986).

10.16.070. Liability for Loss or Damages Limited. The Port of Homer will not be responsible for any loss or damage caused by fire, frost, heat, dampness, leakage, the elements, evaporation, natural shrinkage, waste or decay, animals, rats, mice or other rodents, moths, weevils or other insects, leakage

or discharge from fire protection systems, collapse of buildings or structures, breakdown of plant or machinery or equipment, or by floats, logs or piling required in breasting vessels away from wharf, nor will it be answerable for any loss, damage or delay arising from insufficient notification or from war, insurrection, or shortage of labor, combination, strikes or riots of any person in its employ or in the service of others, or from any consequences arising therefrom. This does not relieve city of responsibility for negligent actions of its employees. (Ord. 86-9(3) (part), 1986).

10.16.080. Responsibility of Property Damage. a. Users of Port of Homer property will be required to maintain same in an orderly manner as directed by the Port of Homer. If a user does not properly clean property used, the Port of Homer shall order the work performed and the user will be billed for actual man-hours at a rate of fifty dollars (\$50.00) per hour.

b. Users damaging Port of Homer property will be responsible for costs of repairs. Users will be billed for repairs to damaged property at cost plus a fee of twenty-five percent for administrative costs. Salvageable materials, resulting from damages, will remain the property of the Port of Homer.

c. Any and all ships, large or small, will be held responsible for any and all damage that may be done to the dock either in landing, departing, or when laying at the dock. (Ord. 87-10 87, 1987; Ord. 86-9(3) (part), 1986).

10.16.090. Prepayment of Charges. Right is reserved by the Port of Homer to require prepayment of all charges on perishable freight or freight of doubtful value, and on all household goods (not new), emigrant's movables, personal effects, livestock and one samples. (Ord. 86-9(3) (part), 1986).

10.16.100. Definitions of Terminal Services. a. Dockage. Dockage is the charge assessed against a vessel for berthing at a wharf, pier, bulkhead structure, or for mooring to a vessel so berthed. (Dockage charges do not include tying-up and casting-off services).

b. Wharfage. Wharfage is a charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto or under wharves or between vessels (to or from barge, lighter or water), when berthed at the wharf or when moored in slip adjacent to wharf. Wharfage is solely the charge for the use of wharf and does not include charges for any other service.

i. Freight loaded or discharged overside a vessel directly to or from another vessel, barge, lighter or raft, or to or from the water while vessel is berthed at the wharf or moored in a wharf slip, shall be assessed one-half the wharfage rates provided.

ii. Wharfage on freight which is transhipped to another vessel at the same terminal at which it is received from a vessel is assessed full wharfage on the inbound movement and one-half wharfage on outward movement.

c. Handling Charge. Handling charges are the charges assessed against freight for handling freight between place of rest on wharf and ship's slings. Handling charges are also applicable on shipments loaded or discharged over side of vessel from or to a barge or lighter which requires handling of barge or lighter to or from ship's slings.

d. Free Time. Free time is the specific period during which cargo may occupy space assigned to it on terminal property free of wharf demurrage charges immediately prior to the loading or subsequent to the discharge of such cargo on or off the vessel.

e. Wharf Demurrage. Wharf demurrage is a charge assessed against cargo remaining in or on terminal facilities after the expiration of free time without prearranged storage.

f. Delivery. Delivery of cargo consists only in making it available to the consignee in order that he may conveniently remove it from the wharf. (Ord. 86-9(3) (part), 1986).

10.15.110. Manifests required. Owner, agents, operators or masters of vessels will furnish the Port of Homer with a complete copy of the manifest showing all cargo loaded or discharged at the terminal. Inbound manifests will be furnished prior to or concurrent with vessel arrival. Outbound manifests will be furnished prior to or concurrent with vessel departure. In lieu of manifests, freight bills containing all information as required in this section may be accepted. (Ord. 86-9(5) (part), 1986).

10.16.120. Charges-From Whom Collected. a. All charges named in this chapter will be assessed against freight, and when not absorbed by the ocean and/or connecting carrier are due from the owner, shipper or consignee of the freight. Charges of which the vessel, its owners or agent have been apprised will be collected from and payment of them guaranteed by the vessel, its owners or agents of vessels. Owners and agents of vessels, if and when permitted to make their own deliveries of freight from the wharf, will be held responsible for payment of any charges against freight delivered by them and accruing to the terminal.

b. Vessels, their owners, agents, masters and shippers or consignees of goods docking at or using the facilities covered by the tariff policy thereby agree to be responsible, jointly and severally, for the payments of charges assessed in accordance with this tariff. Rates, rules and regulations of this tariff and liability for charges apply without regard to the provisions of any bills of lading, charter party agreements, contracts or any other conflicting provisions.

c. All charges for services rendered by the Port of Homer or for the use of terminal facilities are due and payable in United States currency as they accrue upon completion of such services or uses. Failure to pay invoice when presented shall place the name of the vessel, its owners or agents or other user of the facilities upon a delinquent list and action shall be taken in accordance with the City of Homer credit policy. Port of Homer may request payment of charges in advance as follows:

1. For all charges to the vessel from its owners or agents, before a vessel commences its loading or discharging;

2. For all charges to the cargo, from a vessel owner, shipper or consignee, before the cargo leaves the custody of the terminal;

3. For all charges on perishable goods or freight of doubtful value, or household goods;

4. Any terminal user still owing on account may be denied future use of the Port or dock facility until the outstanding account is paid.

5. The Port of Homer will not accept charges that include the cost or value of merchandise or articles being shipped, nor be responsible in any way for such C.O.D. or sight-draft shipments;

6. Rates named in this section do not include charges for loading or unloading, or delivery to or from consignee's vehicles, vans, vessels or other conveyances, except at the terminal's convenience. (Ord. 87-10 58, 1987; Ord. 88-9(5) (part), 1988).

10.16.140. Right to Furnish Labor, Services and Equipment.

The right is reserved by the Port of Homer to furnish all labor, equipment, supplies, and materials and to perform all services in connection with the operation of the terminal under rates and conditions named in this chapter. (Ord. 85-9(5) (part), 1986).

10.16.150. Right to Sell for Unpaid Charges.

Freight on which unpaid terminal charges and advances have accrued may be sold to satisfy such charges and costs. Freight of a perishable nature or of a nature liable to damage other freight may be sold at public or private auction without advertising, providing the owner has been given proper notice to pay charges and remove the freight, and has neglected or failed to comply. (Ord. 85-9(5) (part), 1986).

10.16.160. Right to Refuse/Remove Freight-Owner's Risk.

a. The right is reserved by the Port of Homer to refuse to accept, receive or unload, or to permit any vessel to discharge:

1. Freight for which previous arrangements for space, receiving, unloading or handling has not been made by the shipper, consignee or carrier;

2. Freight deemed extra offensive, perishable or hazardous;

3. Freight, the value of which may be determined as less than the probable terminal charges;

4. Freight, not packed in packages or containers suitable for standing the ordinary handling incident to its transportation. Such freight, however, may be repacked or reconditioned at the discretion of the Port of Homer and all expense, loss or damage incident thereto shall be for the account of the cargo.

b. Hazardous or offensive freight which by its nature is liable to damage other freight may be immediately removed to other locations or receptacles with all expense and risk for loss or damage for the account of the owner, shipper, or agent or consignee.

1. Freight which, in the judgement of the Port Authority, may hamper normal operations of wharf or terminal.

2. Freight remaining after expiration of free time, and freight shut out at clearance of vessel, may be piled or repiled to make space, transferred to other locations or receptacles, or removed to public or private warehouses, with all expense and risk of loss or damage for account of the owner, shipper, consignee, agent or carrier as responsibility may appear.

c. The right is reserved by the Port of Homer to withhold delivery of freight until all accrued terminal charge and/or advances against the freight have been paid in full. At the Port of Homer's discretion any or all of such freight may be placed in public or private warehouses, with all cost of removal and subsequent handling and storage for the account of the owner of the freight.

d. The acceptance, handling or storage of hazardous materials, as established by the Department of Transportation Hazardous Materials Commodity List, shall be subject to special arrangements with Port of Homer and governed by rules and regulations of federal, state and local authorities.

e. All freight will be accepted only at the owner's risk. (Ord. 86-9(S) (part), 1986).

10.16.170. Freight in Transit. Discharge on wharf for transshipment to points beyond and reloaded by a vessel of same line for delivery final destination will be charged half wharfage and handling for each movement. (Ord. 86-9(S) (part), 1986).

10.16.180. Acceptance and Handling of Livestock. The acceptance and handling of livestock shall be subject to special arrangements with the Port of Homer and governed by rules and regulations of the federal, state and local government. (Ord. 86-9(S) (part), 1986).

10.16.190. Tax Assessments. All tax assessments levied (income tax excepted) by the federal government and/or State of Alaska, and its subdivisions, will be charged to the owner, consignee or shipper. (Ord. 86-9(S) (part), 1986).

10.16.200. Storage. a. All charges for storage are on a month-to-month basis unless otherwise provided. Charges for any particular lot shall begin at the receipt of the first unit of that particular lot in store and shall continue and include the storage month during which the last unit of the particular lot is removed from storage. Charges shall be made on the basis of the maximum number of units in any particular lot in store during the storage month. All charges for storage are due on the first day of a storage month, and all other charges are due when incurred.

b. A storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding calendar months. Less than one month's storage will be charged for the full month.

c. Stored goods are not insured nor do storage rates include insurance.

d. The Port of Homer retains the privilege of refusal to store any and all items.

e. Anyone requiring the use of open storage areas must register with the Harbormaster prior to actual use. The Harbormaster will assign the appropriate location and collect the appropriate storage fees. Anyone depositing materials or equipment in a storage area without registration will be required to pay a minimum of one (1) month charge and will not be eligible for reduced rates until all fees are paid.

f. Materials that are hazardous, dangerous to the public or subject to pilferage, deposited in storage areas without proper registration may be impounded by the Harbormaster and appropriate impound fees added to storage fees.

g. The Harbormaster may negotiate storage contracts for periods of six (6) months or longer. (Ord. 87-10 59, 1987; Ord. 86-9(8) (part), 1986).

10.16.202. Vehicle Parking. a. The Harbormaster will from time to time delineate vehicle parking locations for vehicles, camping and long term storage. The Harbormaster's plan will be reviewed annually.

b. The Harbormaster will designate areas for storage of vehicles. Vehicles must be registered prior to locating in these areas and pay an annual fee of seventy-five (\$75.00) dollars. Vehicles that are properly registered and pay all fees in advance will be charged only sixty (\$60.00) dollars per year.

c. Vehicles which are not registered, blocking traffic or otherwise interrupting port or harbor operations, may be impounded by the Harbormaster and all costs associated with impoundment will be the responsibility of the vehicle owner. (Ord. 87-10 810, 1987).

10.16.210. Use of Barge Loading Ramp. a. Use of the barge loading ramp will be at the discretion of the Port of Homer.

b. Clearing of all debris, ice and snow from the ramp area will be at the user's expense.

c. Track vehicles or vehicles with cleated treads must use proper materials and equipment to protect the ramp. (Ord. 86-9(8) (part), 1986).

10.16.220. Use of Beaches Under City Control. a. The use of beaches under City ownership or control for commercial barge, vessel repair, equipment loading or similar purposes, must be approved in advance by the Harbormaster.

b. The Harbormaster shall charge a fee of one hundred (\$100.00) dollars for landing or parking a vessel on the beaches under City ownership or control, and a parking fee of seventy-five dollars (\$75.00) per day thereafter. Vessels that register their landings and pay all fees in advance will be charged only seventy-five (\$75.00) dollars for the initial landing. Said charge may be waived by the Harbormaster under appropriate circumstances.

c. The user of any beach area must repair any damage to the beach and remove all debris. Failure to make such repairs and removal will result in repairs and cleanup by the harbor staff. The costs incurred by the harbor staff will be fully charged to the beach user. Labor rate for the harbor staff will be \$50 per hour per person, plus appropriate equipment rental and material costs. (Ord. 87-4(8) 815, 1987).

10.16.230. Dockage Period and Berth Occupancy. a. Dockage shall commence when a vessel is made fast to a wharf, pier or other facility, or when a vessel is moored to another vessel so berthed, and shall continue until such vessel is completely freed from and vacated the berth. No deductions will be made for Sundays or holidays.

b. Vessels may occupy a berth, subject to charges, providing the vessel shall vacate the berth upon demand by the Port Authority or his authorized representative. Vessels refusing to vacate the berth on demand may be moved by tug or otherwise, and any expenses, damages to the vessel or to other vessels or wharf structures during such removal shall be charged to the vessel so moved. A vessel at berth engaged in loading or discharging cargo may be required to work overtime at the discretion of the Port of Homer. Overtime differentials shall be for the account of the vessel's owners, agents or operators. (Ord. 89-9(3) (part), 1988).

10.16.240. Report and Registration. Every owner or operator of any vessel using the port facilities is hereby required to report to the Harbormaster to register his name, the name and number of the vessel and other pertinent information, with the Harbormaster on forms to be provided for that purpose, and pay the required fees immediately but no later than two hours after the vessel enters and/or moors anywhere in the port and/or before using any port facilities, and shall execute an agreement providing for payment of license fees and other charges. Vessels intending to use the Main Dock must schedule their arrival with the Harbormaster at least six (6) hours before docking. Vessels that fail to provide adequate notice may not be eligible for the reduced dockage rate. (Ord. 87-4(8) 816, 1987).

10.16.250. Use of Fish Dock. a. The fish Dock is to be used primarily for the loading and unloading of fish, fish products and fishing gear. Any other use must be approved in advance by the Harbormaster and may be assessed a dock use fee by the Harbormaster. Fee will be the same as for use of the Main Dock (10.16.080).

b. For an approved user blocking access to cranes other than those in use, a fee of ten dollars (\$10.00) per hour will be assessed for each crane blocked if another vessel is thereby forced to wait.

c. Failure to obtain prior approval for a use other than loading and unloading fish, fish products or fishing gear will result in the imposition of a surcharge of thirty dollars (\$30.00) per hour in addition to regular fees. (Ord. 87-4(8) 817, 1987).

Chapter 10.18

PORT TARIFF RATES AND REGULATIONS

Sections:

10.18.010	Short Title
10.18.020	Abandoned items on docks
10.18.030	Labor performed by Port employees
10.18.040	Free time
10.18.050	Alaska Marine Highway
10.18.060	Hazardous materials
10.18.070	Livestock
10.18.080	Dockage of vessel
10.18.090	Gear free from wharfage charges
10.18.100	Water furnished to vessels
10.18.110	Cargo handling
10.18.120	Rates when not provided herein
10.18.130	Storage
10.18.140	Barge loading ramp
10.18.150	Service charges
10.18.160	Wharf demurrage
10.18.170	Minimum billing
10.18.180	Wharfage on boats
10.18.190	Wharfage rates on freight not otherwise specified
10.18.200	Minimum wharfage
10.18.210	Fuel wharfage
10.18.220	Logs, wooden
10.18.230	Seafood

10.18.010. Short Title. The chapter constitutes the Port Tariff Code of the City, and may be cited as such. (Ord. 86-9(3) (part), 1986).

10.18.020. Abandoned Items on Dock. Items abandoned or left unaccompanied on the Main Dock or the Fish Dock are subject to impound. Free-time regulations do not apply to the Fish Dock. (Ord. 86-9(3) (part), 1986).

10.18.030. Labor Performed by Port Employees. Non-longshore labor performed by Port employees, not covered under other sections, will be at the rate of fifty dollars (\$50.00) per hour. (Ord. 87-10 511, 1987; Ord. 86-9(3) (part), 1986).

10.18.040. Free Time. Free time not to exceed two days on local freight, and two days on in-transit freight, will be allowed. (Ord. 86-9(3) (part), 1986).

10.18.050. Alaska Marine Highway. Alaska Marine Highway vessels will be charged for services according to existing labor agreements. Commodity rates do not apply to the vessels or traffic being loaded thereon. Special services for customers of the A.M.H. will be charged to the customers according to the rates established in this chapter. (Ord. 86-9(3) (part), 1986).

10.18.060. Hazardous Materials. a. Hazardous materials, as established by the Department of Transportation Hazardous Materials Commodity List, will be charged wharfage at the rate of forty cents per hundred pounds, or fractions thereof, at terminals designated by U.S. Coast Guard permit.

Hazardous materials must be handled according to all Federal, state and local laws and regulations, (Ord. 86-9(8) (part), 1986).

10.18.070. Livestock. a. The consignee must be present and furnish all specialized labor and equipment to handle livestock.

b. The rates for livestock shall be as follows:

- 1. Horses, mules, cattle, hogs, sheep, goats and all other livestock, six dollars (\$6.00);
- 2. Fowl of any kind, crated, six dollars (\$6.00) per crate. (Ord. 86-9(8) (part), 1986).

c. Harbormaster may waive part or all of the dockage fees for scheduled vessels involved in approved repairs, loading or unloading gear, or off loading fish or fish products.

d. The consignee must be present and furnish all specialized labor and equipment to handle the stock

10.18.080. Dockage of Vessel. a. Dockage on the Main Canal will be charged per landing. Rates are as follows:

0 - 100	\$100.00
100 - 250 G.T.	125.00
251 - 500 G.T.	150.00
501 - 1000 G.T.	200.00
1001 - 2000 G.T.	250.00
2001 - 3000 G.T.	300.00

Vessels that are properly registered and pay all fees in advance will be given a fifty (\$50.00) dollar/day discount. (Ord. 86-9(8) (part), 1986).

10.18.090. Gear Free From Wharfage Charges. Fishing gear, crab pots, crab racks and shrimp pots, being loaded onto a fishing boat for the purpose of being placed in the water to catch product, when the product and the gear will be returned over the Port of Homer docks, will be held free from wharfage charges. (Ord. 86-9(8) (part), 1986).

10.18.100. Water Furnished to Vessels. The following charges in dollars will be made for furnishing water to vessels berthed at terminals subject to this tariff:

a. Quantity charge: Five dollars (\$5.00) per 1,000 gallons (minimum 5,000 gallons).

b. Connection & Disconnection: Scheduled deliveries will have a minimum charge of fifty (\$50.00) dollars for combined connection and disconnections.

Unscheduled deliveries will have a fifty dollar (\$50.00) charge for connection and twenty-five dollars (\$25.00) disconnections.

d. No fees will be charged for water delivered within the harbor. (Ord. 87-10 §12, 1987; Ord. 86-9(5) (part), 1986).

10.18.110. Cargo Handling. Cargo handling will be chargeable costs plus a twenty-five percent administrative fee (Ord. 86-9(5) (part), 1986).

10.18.120. Rates When Not Provided Herein. When services are performed by the Port of Homer, its employees or agents, for which no specific rates are set forth in this tariff, or when reference is made to this item, charges for such service shall be the man-hour rates (non-longshoremen) provided in Section 10.18.030. Charges for materials furnished in connection with the services will be assessed at cost, plus fifteen percent. (Ord. 86-9(5) (part), 1986).

10.18.130. Storage. Storage is charged at the following monthly rates. The Harbormaster may enter into negotiated contract rates for storage of periods of six (6) months or more. The minimum charge is ten dollars (\$10.00) per month in any area:

Impound Areas	\$.20 per square foot
Open areas, fishing gear	.06 per square foot
Open areas, nonfishing gear	.10 per square foot
Fenced Storage Yard	.15 per square foot

Equipment and materials stored without proper registration and advance payment will be charged the impound rate, regardless of the area being used. (Ord. 87-10 §13, 1987; Ord. 86-9(5) (part), 1986).

10.18.140. Barge Loading Ramp. Charges for use of the barge loading ramp shall be seventy-five dollars (\$75.00) per landing. (Ord. 86-9(5) (part), 1986).

10.18.150. Service Charges. Service charges to vessels docking at the Main Dock to handle refuse, laundry, groceries, personnel, and/or personal items, not loading other cargo, will be twenty-five dollars per landing. This is in lieu of wharfage rates on these items. (Ord. 86-9(5) (part), 1986).

10.18.160. Wharf Demurrage. Wharf demurrage shall be at a rate of five cents (\$.05) per cubic foot per day. (Ord. 86-9(5) (part), 1986).

10.18.170. Minimum Billing. Minimum billing on any invoice will be ten dollars (\$10.00). (Ord. 86-9(5) (part), 1986).

10.18.180. Wharfage on Boats. Fishing boats, pleasure craft, skiffs, dinghies and other boats moved over the docks will be charged at the following rates:

Up to and including 20 feet L.O.A.	\$10.00 each
Over 20 feet L.O.A.	1.00 per lineal foot

(Ord. 86-9(5) (part), 1986).

10.18.190. Wharfage Rates on Freight Not Otherwise Specified. Freight, not otherwise specified, will be charged at the rate of twenty cents (\$.20) per one hundred pounds. (Ord. 86-9(9) (part), 1986).

10.18.200. Minimum Wharfage. Minimum wharfage on any shipment will be ten dollars (\$10.00). (Ord. 86-9(9) (part), 1986).

10.18.210. Fuel Wharfage. Charges of \$.005 per gallon for fuel dispensed over city property will be assessed. (Ord. 86-9(9) (part), 1986).

10.18.220. Logs, Wooden. Logs, in lots of two hundred fifty thousand feet board measure, outbound only:

a. Per one thousand board feet measure, one dollar and thirty-two cents;

b. In absence of board feet measure on bill of lading, three pounds will equal one board foot measure. (Ord. 86-9(9) (part), 1986).

10.18.230. Seafood. All seafood and seafood products will be assessed a wharfage fee of two dollars and fifty cents (\$2.50) per ton or fraction thereof.

Chapter 10.20

Annual Port and Harbor Rate Review

Sections:

10.20.010 Annual Review Required.

10.10.010. Annual Review Required. An annual review shall be required of the Port, Fish Dock and Harbor rates. Such annual review shall be part of preparation of the Port, Fish Dock and Harbor fiscal operating budgets. (Ord. 86-6(5), 1986).

DATED at Homer, Alaska this 9th day of May, 1988.

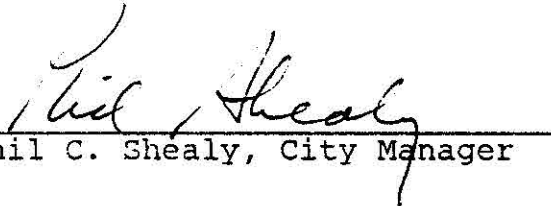
CITY OF HOMER

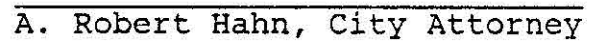

JOHN P. CALHOUN, MAYOR

ATTEST:


PATTI J. WHALIN, CITY CLERK

REVIEWED AND APPROVED AS TO FORM AND CONTENT:


Phil C. Shealy, City Manager


A. Robert Hahn, City Attorney

First Reading: April 11, 1988

Public Hearing: April 25, 1988

Second Reading/
Date of Adoption: May 9, 1988

Effective Date: May 10, 1988