

CITY OF UNALASKA
UNALASKA, ALASKA

ORDINANCE 2021-__

AN ORDINANCE OF THE UNALASKA CITY COUNCIL AMENDING UNALASKA MUNICIPAL CODE TITLE 18.

BE IT ENACTED by the City Council of the City of Unalaska:

Section 1: Form. Sections 2-15 of this ordinance are a Code ordinance.

Section 2: Amendment of Section 18.04.020. Section 18.04.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.04.020 STATE REGULATIONS ADOPTED.

To the extent that they are not inconsistent with any provisions of this title, the regulations contained in the Alaska Administrative Code, Title 17, Chapter 80, "Water and Harbors," pertaining to the operation of harbors and harbor facilities, are adopted by reference and made a part of this title with the following changes:

- A. All references to "commissioner" shall mean "Port Director".
- B. All references to "state harbor facility" shall mean. "Unalaska port facility".

Section 3: Amendment of Section 18.04.030. Section 18.04.030 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck] RESERVED FOR CONSIDERATION OF MINOR OFFENSE ENFORCEMENT MECHANISM.

Section 4: Amendment of Section 18.04.040. Section 18.04.040 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.04.040 DEFINITIONS.

The following terms shall have the following meanings for purposes of this title:

(~~Θ~~ Δ) "ALASKA TIDELAND SURVEY (ATS)." "Alaska Tideland Survey" or "ATS" means that platted surveyed, monumented and recorded tidal and submerged land areas that reflects a

specific horizontal shore side boundary and depth to the approved director's line, established by the Director of Division of Lands, Alaska Department of Natural Resources.

(P B) "AUTHORIZED EMERGENCY VESSELS." "Authorized Emergency Vessels" means any authorized vessel of the Port Director, Harbormaster, City of Unalaska, the United States Government and State of Alaska authorized patrol vessels.

(C) "DEPUTY PORT DIRECTOR" means the duly retained Deputy Port Director of the City of Unalaska, Alaska or his or her designated representatives.

(A D) "DERELICT." "Derelict" means any vessel moored or otherwise located in the boundaries of the port or at port facilities that is forsaken, abandoned, deserted, or cast away; or that by appearance gives evidence of being forsaken, abandoned, deserted, or cast away, or that is unsound, unseaworthy, and unfit for its trade or occupation, and that by any substantial evidence of neglect may be considered abandoned.

(G E) "HARBORMASTER." "Harbormaster" means the duly retained Harbormaster of the City of Unalaska, Alaska, or his or her designated representatives.

(F) "HARBOR OFFICER" means the duly retained Harbor Officer(s) of the City of Unalaska, Alaska.

(E G) "LOADING AREAS." "Loading Areas" means those approaches and designated areas of any float or dock that are posted and marked for use by the general public for the purpose of loading and unloading of supplies, equipment and stores.

(F H) "MOORING FACILITIES RESERVATION FEE." "Mooring Facilities Reservation Fee" is that fee which is charged to a vessel operator, in consideration for being granted a reserved mooring space in the port facilities.

(G I) "MOORING FACILITIES USE FEE." "Mooring Facilities Use Fee" is that fee charged to a vessel operator for the use of an open mooring space in the port facilities or a vacant reserved mooring space.

(H J) "NUISANCE." "Nuisance" means any condition which creates a danger, health hazard, attractive nuisance, a hazard to foot traffic on city floats and docks, or otherwise impedes the safe negotiation of docks, floats, and other facilities, by foot traffic, including defecation by a pet or other kept animal on a city float, dock or other port facility, or unnecessary and avoidable noise, such as loud music, between the hours of 10:00 p.m. and 7:00 a.m., and that disturbs the quiet enjoyment of users of the port or residents of the City of Unalaska.

(I K) "OPEN MOORING SPACE." "Open Mooring Space" means mooring space that has not been set aside and posted as a reserved mooring space and which is available on a "first-come-first-served" basis.

(J L) "PORT." "Port" means the International Port of Dutch Harbor, and includes, but is not limited to, all port facilities and waters within the jurisdiction of the City of Unalaska as defined by the city limits of the City of Unalaska.

(BM) "PORT DIRECTOR." "Port Director" means the duly appointed Port Director of the City of Unalaska, Unalaska or his or her designated representatives.

(DN) "PORT FACILITIES." "Port Facilities" are those improvements and their appurtenant areas within the jurisdiction of, and owned by, the City of Unalaska and that are adapted to the purpose of securing and/or servicing vessels. The term includes, but is not limited to, docks, mooring devices, floats, fingers, stalls, gridirons, and other appurtenances.

(KQ) "RESERVED MOORING SPACE." "Reserved Mooring Space" means mooring space which has been set aside and posted for long-term mooring with the prior knowledge and approval of the Harbormaster, following payment of the appropriate fee.

~~(NP) "TIDAL AND SUBMERGED LAND." "Tidal and Submerged Land" or Tide and Submerged Land means those lands which are periodically covered by tidal waters between the elevation of mean high and mean low tides that water covered area affected by the influence of the tidal action and those lands that are always submerged beneath the water.~~

(LQ) "VESSEL." "Vessel" means watercraft of every kind and descriptions, including but not limited to boats, barges, houseboats, rafts, ships and skiffs.

(MR) "VESSEL OPERATOR." "Vessel Operator" means the actual or registered owner, master, managing agent, person in navigational control of, and any other person responsible for the physical operation of the vessel.

Section 5: Amendment of Subsection 18.08.010(A). Subsection 18.08.010(A) of the Unalaska Code of Ordinances is hereby amended to read as follows: [deletions are overstruck]

18.08.010 PORT DIRECTOR.

(A) The Port Director shall attempt to enforce all of the provisions of this title and any rules and regulations duly adopted hereunder. ~~In the performance of such enforcement the Port Director shall have all of the powers of a peace officer of the city.~~ The Port Director may delegate enforcement authority to the Deputy Port Director.

Section 6: Amendment of Subsection 18.08.020(A). Subsection 18.08.020(A) of the Unalaska Code of Ordinances is hereby amended to read as follows: [deletions are overstruck]

18.08.020 HARBORMASTER.

(A) The Harbormaster shall attempt to enforce all of the provisions of this title and any rules and regulations duly adopted hereunder. ~~In the performance of such enforcement the Harbormaster shall have all of the powers of a peace officer of the city.~~ The Harbormaster may delegate enforcement authority to any Harbor Officer.

Section 7: Amendment of Subsection 18.08.030(A). Subsection 18.08.030(A) of the Unalaska Code of Ordinances is hereby amended to read as follows: [deletions are overstruck]

18.08.030 REGISTRATION.

(A) Every vessel operator using the port facilities is required to register ~~his~~ their name, telephone number, post office address, street address, the name and state or federal certificate of number of the vessel, its length, its breadth, and its registered tonnage, if any, and any other information deemed necessary, with the Harbormaster on forms to be provided ~~by him~~ for that purpose. Vessel operators shall immediately notify the Harbormaster in writing of any changes in this information.

Section 8: Amendment of Section 18.08.080. Section 18.08.080 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]:

18.08.080 CITY OWNED TIDELANDS.

(A) The City of Unalaska has received, through patent, selected tidal e and submerged land areas from the State of Alaska. The areas are indicated by Alaska Tideland Surveys (ATS). The continued use of the city owned areas by private companies through the construction of permanent docks, wharfs, fish processing out-fall lines, and seawater in-take lines ~~is accommodated by~~ requires a specific lease agreement with the City of Unalaska as outlined in Title 7.16, UCO.

(B) The utilization of Alaska Tideland Survey areas ~~are~~ is subject to on-site lease compliance checks by the Harbormaster to ~~insure~~ ensure that lease terms are complied with. The field checks may be done in conjunction with the Department of Planning. ~~Citations may be issued if substantial violations are noted and not corrected.~~

Section 9: Amendment of Section 18.12.010. Section 18.12.010 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.12.010 POLLUTION AND SANITATION.

Every vessel operator using the port or any port facility shall:

(A) Use all reasonable precautions in keeping the vessel in his or her charge in a reasonably clean and sanitary condition;

(B) Refrain from pumping ~~bilges~~ bilges and sanitary holding tanks into the waters of the port, or otherwise allowing any petroleum products, bilge water, raw sewage, or other pollutants to be introduced into the waters of the port;

(C) Refrain from throwing or allowing to be introduced into the waters of the port any garbage, wood, pallets, plastic, or other waste. Materials stored or stacked on a vessel's deck shall be secured in such a way as to ~~insure~~ ensure that the wind cannot blow materials from the vessel into the waters of the port; and

(D) Comply with all applicable state or federal laws and regulations regarding pollution, waste disposal and sanitation, ~~which are incorporated herein by reference.~~

Section 10: Amendment of Section 18.12.020. Section 18.12.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.12.020 SAFEGUARDING.

(A) ~~Vessels~~ Vessel operators shall not anchor a vessel in such a way as to endanger other vessels moored or at anchor. Should a conflict arise between anchored vessels, the previously anchored vessel shall have right-of-anchorage, and the subsequently anchored vessel shall have the burden of changing anchorage.

(B) Vessel operators shall ~~insure~~ ensure that each vessel in their charge has sufficient scope and ground tackle to preclude dragging of the anchor in all weather conditions.

(C) Vessel operators, while anchored within the port, shall maintain a radar or visual watch from the bridge of the vessel to ~~insure~~ ensure that each vessel in their charge maintains its position.

(D) Vessel operators shall maintain a radio watch on VHF channel 16 while anchored in the port.

(E) Vessel operators shall obtain permission from the Harbormaster before anchoring in a fairway, and shall move anchorage immediately at the request of the Harbormaster.

(F) Mooring buoys shall be of a sort approved by the U.S. Army Corps of Engineers, and ground tackle for buoys shall be of sufficient size to preclude movement off position in all weather conditions. If a mooring buoy is moved off position, the owner of the buoy shall increase the size and weight of the buoy's anchoring system and move the buoy back into position as soon as possible.

(G) Mooring buoys shall be white in color, with a horizontal blue band midway between the waterline and the top of the buoy. Mooring buoys shall be maintained in such a way, through painting, lighting, or other means to maximize their visibility at night.

(H) Vessel operators shall use all reasonable precautions in keeping each vessel in their charge free from fire hazards of any type or nature.

(I) Vessel operators shall use all reasonable efforts and precautions to keep each vessel in their charge well and securely moored with lines in reasonably fit condition and of a sufficient diameter and number to ~~insure~~ ensure that the vessel will remain securely moored under all weather conditions.

(J) Vessel operators shall ~~insure~~ ensure that each vessel in their charge is sufficiently pumped so as to remain afloat and not be in danger of sinking, and shall otherwise attend to the needs of each vessel.

Section 11: Amendment of Section 18.16.020. Section 18.16.020 of the Unalaska Code of Ordinances is hereby amended to read as follows: [deletions are overstruck]:

8.16.020 MOORING FACILITIES RESERVATION FEE.

(A) Vessel operators who have applied for and been granted a reserved mooring space shall be required to pay a mooring facilities ~~reservation~~ fee.

(B) The mooring facilities ~~reservation~~ fee schedule applicable to mooring spaces located within each port facility shall be set out in that facility's operating plan.

(C) Individuals who wish to cancel their reservations to their mooring or stalls, upon notification to the Harbormaster of their intention, shall be allowed a rebate of the fee paid, if and to the extent permitted by that facility's operating plan.

(D) The vessel operator of a vessel that is being occupied, lived on, rented or leased as a place of human habitation or a primary residence shall be charged the regular fee for a reservation of a mooring space plus an additional fee to be set by ordinance per calendar month. This additional fee is payable on a monthly basis in advance on the first day of each calendar month. The city may waive the additional monthly fee if the vessel operator or occupant notifies the Harbormaster in writing prior to the calendar months in question, stating the dates that the vessel will be vacant, and that the vessel will be occupied for less than 15 days in the calendar month, and that the vessel is no longer used as a primary residence during that period.

Section 12: Amendment of Subsection 18.20.010. Subsection 18.20.010 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.20.010 IMPOUNDMENT.

(A) The Harbormaster may take ~~immediate~~ possession and/or impound and remove any vessel within his jurisdiction:

- (1) To abate derelicts and nuisances;
- (2) For failure to comply with the registration provisions of this title;
- (3) That is ~~ob~~structing port traffic and the vessel operator is unable, fails or refuses to immediately attend to and remove the vessel such that it no longer obstructs port traffic;
- (4) Whose operator reasonably appears incapable of safely operating the vessel or appears incapable of directing the disposition of the same;
- (5) Whose operator refuses to properly identify ~~himself/herself~~ themselves upon lawful request of the Harbormaster, or refuses or fails to obey an order of the Harbormaster to proceed to or from an area following issuance of a citation or in an emergency;
- (6) Whose operator operates a vessel in a reckless manner under § 18.20.030, in a negligent manner under § 18.12.040, or in another manner so as to endanger the safety of others or to unreasonably interfere with the navigation of other vessels, and the Harbormaster believes such operation would continue unless possession of the vessel be taken;
- (7) That is moored in a reserved mooring space assigned to another after reasonable efforts were made at attempting to contact the vessel operator to move the vessel in question, or who, after receiving notification to move the vessel, refuses to do so;
- (8) That is moored at a loading area or launch ramp area for a period of time longer than permitted;
- (9) That is ~~in~~ imminent danger of sinking; ~~and or~~
- (10) That constitutes a fire hazard to itself, port facilities or other property.

(B) When taking possession or impounding as authorized by ~~subsection (A) of this section~~, this Chapter the Harbormaster may impound the vessel in place by chaining or otherwise mooring it to a float or other suitable object, or if practical by removing it from the water and placing it in either city or commercial land storage. Vessels not practical to impound by moving, mooring or removing from the water may be impounded by posting a notice of impoundment in the places set out in § 18.20.030.

(C) The Harbormaster may appoint a custodian to maintain and safekeep the vessel while it remains impounded. In the discretion of the Harbormaster, such custodian may be the operator of the vessel.

(D) Upon impoundment of a vessel, it shall be unlawful for any person:

(1) To move, load, unload, rebuild, or enter upon such vessel without written permission from the Harbormaster, other than for necessary maintenance and repair to prevent deterioration of the same or sinking; and

(2) To remove, mutilate, destroy or conceal any notice or sign posted by the Harbormaster pursuant to this section.

Section 13: Amendment of Subsection 18.20.030. Subsection 18.20.010 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.20.030 NOTICE OF IMPOUNDMENT.

(A) ~~Immediately upon~~ At least ten (10 days prior to impounding any vessel, the city shall cause to be posted on the vessel and in five public locations throughout the city a notice of such action ~~.to be taken by the city.~~ A copy of the notice shall be mailed, by registered or certified mail, to each affected vessel operator at ~~his/her~~ their address of record and to all other persons known to have an interest in the vessel, including all ~~lienholders~~ lienholders shown on the records of a state or federal agency. ~~If the vessel is documented under the laws of the United States, notice shall also be sent to the collector of customs of the port of documentation, if such can be reasonably ascertained.~~

(B) The notice required by this section shall contain the name and/or number of the vessel; the name and address, if known, of the vessel's owner and each operator; and the vessel's location. The notice shall further state the grounds upon which the vessel is being impounded, and the proposed disposition of the vessel. The notice shall further state that any person with a property interest in the vessel may request a hearing as provided in this chapter.

Section 14: Amendment of Section 18.20.040. Section 18.20.040 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.20.040 HEARING ~~AFTER~~ BEFORE IMPOUNDMENT.

(A) Any person with a property interest in an impounded vessel may obtain a prompt hearing before the Port Director ~~before the vessel is impounded to determine whether there is probable cause to impound the vessel by submitted~~ submitting a written request for a hearing ~~at least no later than~~ 10 days prior to public sale of the vessel after receipt of notice of impoundment or after the person has learned such vessel will be impounded whichever comes first.

(B) At the hearing, the Port Director shall review whether ~~proper grounds~~ probable cause exists for impounding the vessel. "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. Any person with a property interest in the vessel may present evidence, call witnesses, and present argument as to the impoundment, its propriety and/or release of the vessel. The city may also present evidence, call witnesses and present argument in response. If it is determined that probable cause to impound exists the City may proceed to impound and sell or destroy the vessel as provided in UCO 18.20.050.

(C) ~~At any time prior to sale,~~ The Port Director shall ~~may~~ release the vessel from impoundment to the owner or operator of the vessel upon such terms and conditions as the Port Director in ~~his/her~~ their discretion finds will abate the nuisance or other cause for impoundment, otherwise remedy the reason for impoundment, and reimburse and compensate the city for expenses owing pursuant to § 18.20.020.

(D) The written decision of the Port Director is a final administrative decision when mailed to each party requesting a hearing, and may be appealed only to the Superior Court. Any appeal must be commenced within thirty (30) days of the date of mailing of the decision.

Section 15: Amendment of Section 18.20.060. Section 18.20.060 of the Unalaska Code of Ordinances is hereby amended to read as follows: [additions are underlined, deletions are overstruck]

18.20.060 ABATEMENT OF NUISANCES.

(A) Upon the Harbormaster's written determination that a condition described in UCO 18.20.010(A) exists that constitutes a clear and present danger to the public health, safety or general welfare, the nuisance may be summarily abated by the Harbormaster without prior notice. The Harbormaster may take immediate possession and/or impound and remove any nuisance or property creating a nuisance on port facilities property.

(B) All ~~other~~ personal property, including but not limited to machinery, equipment, gear, appliances and furniture, placed or stored on port facilities property without the express permission of the Harbormaster shall be considered to be a hazard and a hindrance to the public use of port facilities. Such property shall be subject to impound if not removed, or written permission from the Harbormaster for such placement or storage is not received, within 24 hours of placement on port facilities property.

(C) Immediately upon impounding any property, the city shall cause to be posted on the property and in five public locations throughout the city a notice of such action. A copy of the notice shall be mailed, by registered or certified mail, to the person who the Harbormaster determines through the exercise of due diligence is the owner of the property and to all other persons known to have an interest in the property

(~~D~~) Property impounded under this section shall be subject to an impound fee to be set by ordinance, plus all costs of impoundment including labor, and a storage charge to be set by ordinance for each day the property remains in the Harbormaster's possession. All impound charges and fees shall be paid in full and in certified funds, before the Harbormaster may release the impounded property to its owner.

(E) A person with a property interest in impounded property may obtain a prompt hearing before the Port Director by submitting a written request for a hearing no later than 10 days after receipt of notice of impoundment or learning of the impoundment whichever is earlier. If following the hearing it is determined the property was improperly impounded it shall be released to the property owner.

(~~D~~ F) In the event property impounded under this section remains impounded for 90 days after written notice of impound is issued to the person who the Harbormaster determines through the exercise of due diligence is the owner of the property and impound charges and fees remain unpaid, the Harbormaster may sell the property at public auction to the highest and best bidder.

Such sale shall be conducted pursuant to a procedure generally similar to that set forth in § 18.20.060 for sale of impounded vessels. If impounded property is without value, it shall be destroyed and otherwise disposed.

(E G) Upon impoundment of property, it shall be unlawful for any person:

(1) To take, move, or access such property without written permission from the Harbormaster pursuant to this section.

(2) To remove, mutilate, destroy or conceal any notice or sign posted by the Harbormaster pursuant to this section.

Section 16: Effective Date. This ordinance shall be effective upon adoption.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on the _____ day of _____ 2021.

Vincent M. Tutiakoff, Sr.
Mayor

ATTEST:

Marjie Veeder, CMC
City Clerk

§ 18.04.010 TITLE.

This chapter shall constitute the “Unalaska Port and Port Facilities Code” of the City of Unalaska, Alaska, and may be cited as such.

§ 18.04.020 STATE REGULATIONS ADOPTED.

To the extent that they are not inconsistent with any provisions of this title, the regulations contained in the Alaska Administrative Code, Title 17, Chapter 80, “Water and Harbors,” pertaining to the operation of harbors and harbor facilities, are adopted by reference and made a part of this title with the following changes:

A. All references to “commissioner” shall mean “Port Director”.

B. All references to “state harbor facility” shall mean. “Unalaska port facility”.

§ 18.04.030 PENALTIES.

All violations of this title shall be punishable under Unalaska Code § [1.24.010](#). In addition thereto, the privilege of using the port or port facilities may be suspended for not more than one year.

§ 18.04.040 DEFINITIONS.

The following terms shall have the following meanings for purposes of this title:

(A) “ALASKA TIDELAND SURVEY (ATS).” “Alaska Tideland Survey” or “ATS” means that platted surveyed, monumented and recorded tidal and submerged land areas that reflects a specific horizontal shore side boundary and depth to the approved director's line, established by the Director of Division of Lands, Alaska Department of Natural Resources.

(B) “AUTHORIZED EMERGENCY VESSELS.” “Authorized Emergency Vessels” means any authorized vessel of the Port Director, Harbormaster, City of Unalaska, the United States Government and State of Alaska authorized patrol vessels.

(C) “DEPUTY PORT DIRECTOR” means the duly retained Deputy Port Director of the City of Unalaska, Alaska or his or her designated representatives.

(D) “DERELICT.” “Derelict” means any vessel moored or otherwise located in the boundaries of the port or at port facilities that is forsaken, abandoned, deserted, or cast away; or that by appearance gives evidence of being forsaken, abandoned, deserted, or cast away, or that is unsound, unseaworthy, and unfit for its trade or occupation, and that by any substantial evidence of neglect may be considered abandoned.

(E) "HARBORMASTER." "Harbormaster" means the duly retained Harbormaster of the City of Unalaska, Alaska, or his or her designated representatives.

(F) "HARBOR OFFICER" means the duly retained Harbor Officer(s) of the City of Unalaska, Alaska.

(G) "LOADING AREAS." "Loading Areas" means those approaches and designated areas of any float or dock that are posted and marked for use by the general public for the purpose of loading and unloading of supplies, equipment and stores.

(H) "MOORING FACILITIES RESERVATION FEE." "Mooring Facilities Reservation Fee" is that fee which is charged to a vessel operator, in consideration for being granted a reserved mooring space in the port facilities.

(I) "MOORING FACILITIES USE FEE." "Mooring Facilities Use Fee" is that fee charged to a vessel operator for the use of an open mooring space in the port facilities or a vacant reserved mooring space.

(J) "NUISANCE." "Nuisance" means any condition which creates a danger, health hazard, attractive nuisance, a hazard to foot traffic on city floats and docks, or otherwise impedes the safe negotiation of docks, floats, and other facilities, by foot traffic, including defecation by a pet or other kept animal on a city float, dock or other port facility, or unnecessary and avoidable noise, such as loud music, between the hours of 10:00 p.m. and 7:00 a.m., and that disturbs the quiet enjoyment of users of the port or residents of the City of Unalaska.

(K) "OPEN MOORING SPACE." "Open Mooring Space" means mooring space that has not been set aside and posted as a reserved mooring space and which is available on a "first-come-first-served" basis.

(L) "PORT." "Port" means the International Port of Dutch Harbor, and includes, but is not limited to, all port facilities and waters within the jurisdiction of the City of Unalaska as defined by the city limits of the City of Unalaska.

(M) "PORT DIRECTOR." "Port Director" means the duly appointed Port Director of the City of Unalaska, Unalaska or his or her designated representatives.

(N) "PORT FACILITIES." "Port Facilities" are those improvements and their appurtenant areas within the jurisdiction of, and owned by, the City of Unalaska and that are adapted to the purpose of securing and/or servicing vessels. The term includes, but is not limited to, docks, mooring devices, floats, fingers, stalls, gridirons, and other appurtenances.

(O) "RESERVED MOORING SPACE." "Reserved Mooring Space" means mooring space which has been set aside and posted for long-term mooring with the prior knowledge and approval of the Harbormaster, following payment of the appropriate fee.

(P) "TIDAL AND SUBMERGED LAND." "Tidal and Submerged Land" means that water covered area affected by the influence of the tidal action and those lands that are always submerged beneath the water.

(Q) "VESSEL." "Vessel" means watercraft of every kind and descriptions, including but not limited to boats, barges, houseboats, rafts, ships and skiffs.

(R) "VESSEL OPERATOR." "Vessel Operator" means the actual or registered owner, master, managing agent, person in navigational control of, and any other person responsible for the physical operation of the vessel.

§ 18.08.010 PORT DIRECTOR.

(A) The Port Director shall attempt to enforce all of the provisions of this title and any rules and regulations duly adopted hereunder. The Port Director may delegate enforcement authority to the Deputy Port Director. ~~In the performance of such enforcement the Port Director shall have all of the powers of a peace officer of the city.~~

(B) The Port Director will classify areas within the port for various uses consistent with zoning designations of all the tide and submerged land areas within the city limits.

(C) The utilization of any city owned or city operated mooring facility or waters within the city's limits shall be deemed a grant of authority to the Port Director, Harbormaster and members of the Department of Public Safety to board the vessel for the purpose of enforcing municipal ordinances and to move the vessel if it is moored in violation of a provision of this title or if required by an emergency or other conditions as set forth in this title.

§ 18.08.020 HARBORMASTER.

(A) The Harbormaster shall attempt to enforce all of the provisions of this title and any rules and regulations duly adopted hereunder. The Harbormaster may delegate enforcement authority to any Harbor Officer. ~~In the performance of such enforcement the Harbormaster shall have all of the powers of a peace officer of the city.~~

(B) The Harbormaster may mark mooring spaces to be assigned, and may post such signs or other information as will inform interested parties of authorized and prohibited uses of the port facilities. The Harbormaster may post informational signs specifying areas where specified conduct is prohibited, but posting of signs shall not be necessary to the enforcement of any provision of this title.

§ 18.08.030 REGISTRATION.

(A) Every vessel operator using the port facilities is required to register ~~his~~ their name, telephone number, post office address, street address, the name and state or federal certificate of number of the vessel, its length, its breadth, and its registered tonnage, if any, and any other information deemed necessary, with the Harbormaster on forms to be provided ~~by him~~ for that purpose. Vessel operators shall immediately notify the Harbormaster in writing of any changes in this information.

(B) No person may moor, berth, tie, attach or connect a vessel to any city owned or operated port facility without registering with the Harbormaster and paying or executing an agreement to pay applicable moorage charges.

§ 18.08.040 FACILITY OPERATING PLANS.

Each of the city's port facilities shall have a written operating plan. Each plan shall be approved by ordinance of the City Council. Rules defining open mooring facilities, reserved mooring facilities, site-specific rules of conduct, site-specific prohibitions, and site-specific permissions shall be set forth in each port facility's respective operating plan. Each facility's operating plan shall be made available to the public at the Harbormaster's office.

§ 18.08.050 REFUSAL OF MOORING FACILITIES.

The Harbormaster may refuse the use of mooring facilities to aircraft, boathouses, floats, houseboats, scows, rafts, pile drivers, and other cumbersome floating structures, or to any boat, vessel or floating structure, that is or may become or create a fire hazard, or that otherwise may become a menace or nuisance to the safety and welfare of other vessels, their occupants or to other property, or to any vessel, owner or operator that is otherwise in violation of any provisions of this title.

§ 18.08.060 ASSIGNMENT OF MOORING FACILITIES.

(A) The Harbormaster shall supervise and manage all mooring spaces in the port facilities.

(B) The Harbormaster may, from time to time, in the interests of safety, order, convenience or health, require a Vessel Operator to change from one mooring space to another. When changes from one mooring space to another are made at the direction of the Harbormaster, any charges for changes of utility service incurred because of that move shall be the responsibility of the city.

§ 18.08.070 LOADING AREAS.

No vessel operator shall permit a vessel to remain moored in a designated loading area for any period longer than is permitted.

§ 18.08.080 CITY OWNED TIDELANDS.

(A) The City of Unalaska has received, through patent, selected ~~tidal tide~~ and submerged land areas from the State of Alaska. The areas are indicated by Alaska Tideland Surveys (ATS). The continued use of the city owned areas by private companies through the construction of permanent docks, wharfs, fish processing out-fall lines, and seawater in-take lines is ~~accommodated by~~ requires a specific lease agreement with the City of Unalaska as outlined in Title 7.16, UCO.

(B) The utilization of Alaska Tideland Survey areas ~~are~~ is subject to on-site lease compliance checks by the Harbormaster to ~~insure~~ ensure that lease terms are complied with. The field checks may be done in conjunction with the Department of Planning. ~~Citations may be issued if substantial violations are noted and not corrected.~~

§ 18.08.090 SEARCH AND RESCUE.

(A) The Port Director shall be responsible for search and rescue operations upon the water of the port, excluding inland lakes, rivers, and streams.

(B) In cases involving vessels requiring emergency or search and rescue services, the port shall be reimbursed by the vessel and vessel operator for time and materials expended on such an effort if:

(1) The vessel or operator involved has repeatedly shown failure to take normal and appropriate steps to assure safety at sea; or

(2) The vessel or operator involved has shown negligence in normal and appropriate vessel repair and maintenance resulting in repeated and avoidable search and rescue call out; or

(3) The vessel or operator is otherwise responsible for repeated and avoidable search and rescue call out; or

(4) The vessel or operator requests harbor patrol vessel service for non-emergency tasks.

(C) The city shall hold and retain a lien, maritime or otherwise, against a vessel that is liable to the city under subsection (B) of this section to the extent such lien is allowed by applicable federal and state law. The city may, at its option, enforce and foreclose such lien by suit in rem pursuant to applicable federal and state law. Such suit shall not preclude the city from pursuing any other remedy at law or in equity.

§ 18.12.010 POLLUTION AND SANITATION.

Every vessel operator using the port or any port facility shall:

(A) Use all reasonable precautions in keeping the vessel in his or her charge in a reasonably clean and sanitary condition;

(B) Refrain from pumping ~~bilges~~ bilges and sanitary holding tanks into the waters of the port, or otherwise allowing any petroleum products, bilge water, raw sewage, or other pollutants to be introduced into the waters of the port;

(C) Refrain from throwing or allowing to be introduced into the waters of the port any garbage, wood, pallets, plastic, or other waste. Materials stored or stacked on a vessel's deck shall be secured in such a way as to ~~insure~~ ensure that the wind cannot blow materials from the vessel into the waters of the port; and

(D) Comply with all applicable state or federal laws and regulations regarding pollution, waste disposal and sanitation, ~~which are incorporated herein by reference.~~

§ 18.12.020 SAFEGUARDING.

(A) ~~Vessels~~ Vessel operators shall not anchor a vessel in such a way as to endanger other vessels moored or at anchor. Should a conflict arise between anchored vessels,

the previously anchored vessel shall have right-of-anchorage, and the subsequently anchored vessel shall have the burden of changing anchorage.

(B) Vessel operators shall ~~insure~~ ensure that each vessel in their charge has sufficient scope and ground tackle to preclude dragging of the anchor in all weather conditions.

(C) Vessel operators, while anchored within the port, shall maintain a radar or visual watch from the bridge of the vessel to insure that each vessel in their charge maintains its position.

(D) Vessel operators shall maintain a radio watch on VHF channel 16 while anchored in the port.

(E) Vessel operators shall obtain permission from the Harbormaster before anchoring in a fairway, and shall move anchorage immediately at the request of the Harbormaster.

(F) Mooring buoys shall be of a sort approved by the U.S. Army Corps of Engineers, and ground tackle for buoys shall be of sufficient size to preclude movement off position in all weather conditions. If a mooring buoy is moved off position, the owner of the buoy shall increase the size and weight of the buoy's anchoring system and move the buoy back into position as soon as possible.

(G) Mooring buoys shall be white in color, with a horizontal blue band midway between the waterline and the top of the buoy. Mooring buoys shall be maintained in such a way, through painting, lighting, or other means to maximize their visibility at night.

(H) Vessel operators shall use all reasonable precautions in keeping each vessel in their charge free from fire hazards of any type or nature.

(I) Vessel operators shall use all reasonable efforts and precautions to keep each vessel in their charge well and securely moored with lines in reasonably fit condition and of a sufficient diameter and number to ~~insure~~ ensure that the vessel will remain securely moored under all weather conditions.

(J) Vessel operators shall ~~insure~~ ensure that each vessel in their charge is sufficiently pumped so as to remain afloat and not be in danger of sinking, and shall otherwise attend to the needs of each vessel.

§ 18.12.030 RECKLESS OPERATION.

It is unlawful for any person to operate or cause to be operated a vessel in a reckless manner. For the purpose of this section "in a reckless manner" means either (1) in willful or wanton disregard of the rights or safety of others, or (2) in a fashion that creates a substantial and unjustifiable risk of harm to person or property. A substantial and unjustifiable risk is a risk of such nature and degree that the conscious disregard of it or a failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in a similar situation.

§ 18.12.040 NEGLIGENT OPERATION.

It is unlawful for any person to operate or cause to be operated a vessel in a negligent manner. For the purpose of this section, "in a negligent manner" means in such a manner as to create an unjustifiable risk of harm to a person or to property and which, as a result of the creation of the risk, actually endangers a person or property. An unjustifiable risk is a risk of such a nature and degree that a failure to avoid it constitutes a deviation from the standard of care that a reasonable person would observe under the circumstances. Proof that a defendant actually endangered a person or property is established by showing that, as a result of the defendant's act or omission:

- (A) A collision occurred; or
- (B) A person, including the defendant, took evasive action to avoid a collision; or
- (C) A person, including the defendant, stopped or slowed down suddenly to avoid a collision; or
- (D) A person or property, including the defendant or his property, was otherwise endangered.

§ 18.12.050 UNLAWFUL ACTS.

- (A) It is unlawful for any person to:
 - (1) Operate a vessel, boat or skiff within a restricted waterway at a speed in excess of 10 knots (11.5 MPH), or at a speed which produces a wake, wash or wave action which may or could reasonably be expected to damage any other vessel or port facility or create discomfort to an occupant of another vessel by causing such other vessel to yaw, pitch, shear or heave because of such wake, wash or wave action. "Restricted waterway" includes the Iliuliuk River, the East Channel of Iliuliuk Harbor, or any water within 100 yards of any private dock, pier or wharf;
 - (2) Throw or otherwise cause or permit to be deposited petroleum products, oil, litter, trash, garbage, or refuse on any float or into the waters of the port;
 - (3) Create or maintain any nuisance within the port, or conduct or carry on any unlawful business or occupation therein;
 - (4) Erect, place, post, or maintain any advertising matter, sign, or other printed matter, other than legal notices, on any part of the port facilities without approval thereof first being obtained from the Harbormaster. All unauthorized advertising and signs may be removed by the Harbormaster;
 - (5) Deposit, place, or leave any cargo, merchandise, supplies, freight, articles, or thing upon any dock, float, ramp decline, walk or other public place in the port facilities, except at such place or places as may be designated as loading areas by the Harbormaster;
 - (6) Fail to register with the Harbormaster any vessel occupying any city port facility;
 - (7) Tap, connect, disconnect, interfere with, or tamper with any electrical wiring, electrical outlet, or electrical device of any kind installed or maintained at the port facilities by the city without first having obtained the permission of the Harbormaster;

(8) Interfere with or tamper with any wharf, float, gangplank, ramp, associated water system or any appurtenance of the port facilities;

(9) Tie up at, enter or otherwise use an Open or a Reserved Mooring Space except as provided for in this title;

(10) Disregard, deface, remove, tamper with or damage any sign or notice posted or erected by or at the direction of the Harbormaster or by direction of the Public Works Department and relating to the use of the port facilities;

(11) Operate a searchlight or other bright light in the port in a manner that will temporarily blind or interfere with the vision of any pedestrian, operator of a motor vehicle or the operator of any other vessel, except in the case of an emergency;

(12) Refuse to comply with any lawful order of the Harbormaster or his representatives;

(13) Fail to maintain a proper radar or visual watch from the bridge of a vessel for which that person is the vessel operator, while the vessel is at anchor within the port;

(14) Fail to maintain a radio watch on VHF channel 16 while a vessel for which that person is the vessel operator is at anchor within the port; or

(15) Knowingly falsify statements or supply false information to the Harbormaster or his representatives.

(16) Operate a vessel in a reckless manner under § [18.12.030](#);

(17) Operate a vessel in a negligent manner under § [18.12.040](#);

(18) Violate the provisions of subsection (D) of § [18.20.010](#), or subsection (E) of § [18.20.060](#); or

(19) Abandon any vessel, boat, ship, skiff or other marine vehicle in such a manner as to create a floating or sunken hazard within the city boundaries. For purposes of this ordinance, a “floating or sunken hazard” may include any boat houses, floats, scows, rafts, pile drivers, other floating structures, or any boat, vessel, or floating structure which is or may become or create a fire hazard, a hazard to navigation, or otherwise become a menace to the safety of the community.

(Am. Ord. 2016-02, passed 2-23-16)

§ 18.12.060 REPORTING VIOLATIONS.

Complaints of any violations of the foregoing prohibited acts shall be made to the Harbormaster or his designated representatives or, in their absence, to the Department of Public Safety for the City of Unalaska.

§ 18.12.070 EXEMPTION OF AUTHORIZED EMERGENCY VESSELS.

(A) The provisions of this title shall not apply to any authorized emergency vessel actually responding to an emergency call or in immediate pursuit of an actual or suspected violator of the law, within the purpose for which such emergency vessel has

been authorized; provided that the provisions of this section shall not relieve the operator of an authorized emergency vessel of the duty to operate with due regard for the safety of all persons, nor shall it protect the operator of such vessel from the consequence of reckless disregard for the safety of others; provided further that the provisions of this section shall in no event extend any special privilege or immunity in the operation of an authorized emergency vessel for any purpose other than that for which has been authorized.

(B) In a case where loss of life, personal injury and/or substantial damage to property or natural resources occurs or is threatened, an authorized emergency vessel actually responding to such casualty may, when the operator of such emergency vessel in good faith believes it to be necessary and appropriate, operate such emergency vessel in a way that produces a wake, wash or wave action which may or could be expected to damage another vessel or property therein or create discomfort to an occupant of another vessel; provided that the provisions of this subsection shall not apply when such wake, wash or wave action itself could lead to loss of life, personal injury and/or substantial damage to property or natural resources.

§ 18.12.080 EMERGENCY POWERS.

Where necessary to expedite vessel traffic, to prevent or eliminate congestion, or to safeguard persons or property, the Harbormaster, or in the event of fire or other emergency the Harbormaster and other authorized officer of appropriate governmental agencies or authorities, may direct vessel traffic as conditions may require, notwithstanding the provisions of this title.

§ 18.12.090 DISTURBING THE PEACE.

Any person who disturbs the quiet enjoyment of other users of the port, by action or lack of action, shall be subject to revocation of mooring privileges and shall be required to vacate the port or port facility immediately. Examples of disturbing others include, but are not limited to, the following: loud music, unnecessary noise, or loud talking between the hours of 10:00 p.m. and 7:00 a.m., allowing a vessel to deteriorate; accumulation of trash, refuse, or garbage; allowing a vessel to become a nuisance, attractive or otherwise. Failure to comply with the Harbormaster's revocation of mooring privileges or order to vacate may result in impoundment under [Chapter 18.20](#) of this title. The remedies of this title are in addition to any civil and criminal remedies the Harbormaster, city, State of Alaska, or any other authority may have.

§ 18.16.010 VESSEL LENGTH.

For purposes of determining the appropriate annual mooring facilities reservation fee, vessel length shall be the overall length as measured from the most forward portion, including booms, spars, gins, or any fixed protuberances, to the most aft portion of the vessel, including booms, spars, gins, or any fixed protuberances.

§ 18.16.020 MOORING FACILITIES RESERVATION FEE.

(A) Vessel operators who have applied for and been granted a reserved mooring space shall be required to pay a mooring facilities reservation fee.

(B) The mooring facilities reservation fee schedule applicable to mooring spaces located within each port facility shall be set out in that facility's operating plan.

(C) Individuals who wish to cancel their reservations to their mooring or stalls, upon notification to the Harbormaster of their intention, shall be allowed a rebate of the fee paid, if and to the extent permitted by that facility's operating plan.

(D) The vessel operator of a vessel that is being occupied, lived on, rented or leased as a place of human habitation or a primary residence shall be charged the regular fee for a reservation of a mooring space plus an additional fee to be set by ordinance per calendar month. This additional fee is payable on a monthly basis in advance on the first day of each calendar month. The city may waive the additional monthly fee if the vessel operator or occupant notifies the Harbormaster in writing prior to the calendar months in question, stating the dates that the vessel will be vacant, and that the vessel will be occupied for less than 15 days in the calendar month, and that the vessel is no longer used as a primary residence during that period.

§ 18.16.030 MOORING FACILITIES USE FEE.

Vessel operators utilizing open harbor mooring facilities shall be required to pay a mooring facilities use fee as set by ordinance.

§ 18.16.040 OTHER FEES.

Other fees relating to port facilities fees shall be set by ordinance.

§ 18.16.050 HARBORMASTER SERVICE FEES.

(A) The Harbormaster may from time to time, but without any obligation or duty to do so and without any obligation or liability on his part or that of the city for his failure to do so, replace defective mooring lines, pump vessels which are in a dangerous condition for lack of pumping, or move any vessel occupying any mooring space for the purpose of protecting such vessel or other property from fire or other hazard. Whenever the Harbormaster performs any of the acts herein above authorized, after having given the best possible notice under the circumstances to the vessel operator of the immediate need therefor, the vessel operator shall pay the city the appropriate fee as prescribed by ordinance.

(B) The city shall hold and retain a lien, maritime or otherwise, against a vessel that is liable to the city for Harbormaster service fees assessed under subsection (A) of this section to the extent such lien is allowed by applicable federal and state law. The city may, at its option, enforce and foreclose such lien by suit in rem pursuant to applicable federal and state law. Such suit shall not preclude the city from pursuing any other remedy at law or in equity.

§ 18.16.060 PAYMENTS.

(A) All fees or charges provided for under this title shall be paid to the order of the City of Unalaska at the Harbormaster's office or at Unalaska City Hall.

(B) Any person who fails to pay a fee or charge due under this title, at the time and place when such fee or charge is due, shall be liable to the city for the amount due. If payment is not made within 60 days of the due date interest at the rate of 10.5% per annum shall accrue. The city shall also be entitled to all attorney's fees and costs in collection of amounts due under this title. The right of the city to pursue collection under this subsection shall not preclude the city from pursuing any other remedy at law or equity.

(C) Except as provided in § [18.20.060](#)(E) of this title, all payments shall be applied first to pay all collection costs incurred by the city, then to pay delinquency charges, and then to pay the principal amount owing and due.

(D) To the extent allowed by federal and state law, the city shall hold and retain and/or may create a lien, maritime or otherwise, against any vessel for any unpaid fees or charges the vessel and/or its operator owe the city. If any such fees and charges remain unpaid and delinquent, the city may, at its option, enforce and foreclose its lien by suit in rem pursuant to applicable federal and state law. Such suit shall not preclude the city from pursuing any other remedy at law or in equity.

§ 18.16.070 PORT AND HARBORS ENTERPRISE FUND.

The City Treasurer shall maintain an enterprise fund known as the "Port and Harbors Enterprise Fund." All fees arising out of operation of the port and port facilities shall be credited to the fund; provided, however, that the monies in the fund shall be subject to the regular city budget process.

§ 18.20.010 IMPOUNDMENT.

(A) The Harbormaster may take ~~immediate~~ possession and/or impound and remove any vessel within his jurisdiction:

- (1) To abate derelicts and nuisances;
- (2) For failure to comply with the registration provisions of this title;
- (3) That is ~~Θ~~ obstructing port traffic and the vessel operator is unable, fails or refuses to immediately attend to and remove the vessel such that it no longer obstructs port traffic;
- (4) Whose operator reasonably appears incapable of safely operating the vessel or appears incapable of directing the disposition of the same;
- (5) Whose operator refuses to properly identify ~~himself/herself~~ themselves upon lawful request of the Harbormaster, or refuses or fails to obey an order of the Harbormaster to proceed to or from an area following issuance of a citation or in an emergency;

(6) Whose operator operates a vessel in a reckless manner under § [18.20.030](#), in a negligent manner under § [18.12.040](#), or in another manner so as to endanger the safety of others or to unreasonably interfere with the navigation of other vessels, and the Harbormaster believes such operation would continue unless possession of the vessel be taken;

(7) That is moored in a reserved mooring space assigned to another after reasonable efforts were made at attempting to contact the vessel operator to move the vessel in question, or who, after receiving notification to move the vessel, refuses to do so;

(8) That is moored at a loading area or launch ramp area for a period of time longer than permitted;

(9)) That is in imminent danger of sinking; ~~and or~~

(10) That constitutes a fire hazard to itself, port facilities or other property.

(B) When taking possession or impounding as authorized by ~~subsection (A) of this section, this Chapter~~, the Harbormaster may impound the vessel in place by chaining or otherwise mooring it to a float or other suitable object, or if practical by removing it from the water and placing it in either city or commercial land storage. Vessels not practical to impound by moving, mooring or removing from the water may be impounded by posting a notice of impoundment in the places set out in § [18.20.030](#).

(C) The Harbormaster may appoint a custodian to maintain and safekeep the vessel while it remains impounded. In the discretion of the Harbormaster, such custodian may be the operator of the vessel.

(D) Upon impoundment of a vessel, it shall be unlawful for any person:

(1) To move, load, unload, rebuild, or enter upon such vessel without written permission from the Harbormaster, other than for necessary maintenance and repair to prevent deterioration of the same or sinking; and

(2) To remove, mutilate, destroy or conceal any notice or sign posted by the Harbormaster pursuant to this section.

§ 18.20.020 EXPENSES.

(A) Expenses incurred by the Harbormaster in the removal, towing impounding, custodianship, moorage and/or storage of any vessel under § [18.20.010](#) shall be paid by such vessel and its operator.

(B) When a vessel or other property is moored or impounded at a port facility, the Harbormaster shall assess a moorage charge therefor in the amount to be set by ordinance per day. Such fee, in case of dry land storage, shall be in addition to the dry land storage fee at the dry land rate and in addition to the haul out fee.

(C) The Harbormaster may decline to release possession of any vessel until all charges are paid in certified funds.

§ 18.20.030 NOTICE OF IMPOUNDMENT.

(A) ~~Immediately upon~~ At least ten (10 days prior to impounding any vessel, the city shall cause to be posted on the vessel and in five public locations throughout the city a notice of such action to be taken by the city. A copy of the notice shall be mailed, by registered or certified mail, to each affected vessel operator at ~~his/her~~ their address of record and to all other persons known to have an interest in the vessel, including all ~~lienholders~~ lienholders shown on the records of a state or federal agency. ~~If the vessel is documented under the laws of the United States, notice shall also be sent to the collector of customs of the port of documentation, if such can be reasonably ascertained.~~

(B) The notice required by this section shall contain the name and/or number of the vessel; the name and address, if known, of the vessel's owner and each operator; and the vessel's location. The notice shall further state the grounds upon which the vessel is being impounded, and the proposed disposition of the vessel. The notice shall further state that any person with a property interest in the vessel may request a hearing as provided in this chapter.

§ 18.20.040 HEARING AFTER BEFORE IMPOUNDMENT.

(A) Any person with a property interest in an impounded vessel may obtain a prompt hearing before the Port Director before the vessel is impounded to determine whether there is probably cause to impound the vessel by ~~submitted~~ submitting a written request for a hearing at least no later than 10 days prior to public sale of the vessel after receipt of notice of impoundment or after the person has learned such vessel will be impounded whichever comes first.

(B) At the hearing, the Port Director shall review whether ~~proper grounds~~ probable cause exists for impounding the vessel. "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. Any person with a property interest in the vessel may present evidence, call witnesses, and present argument as to the impoundment, its propriety and/or release of the vessel. The city may also present evidence, call witnesses and present argument in response. If it is determined that probable cause to impound exists the City may proceed to impound and sell or destroy the vessel as provided in UCO 18.20.050.

(C) At any time prior to sale, ~~t~~The Port Director ~~shall~~ may release the vessel from impoundment to the owner or operator of the vessel upon such terms and conditions as the Port Director in ~~his/her~~ their discretion finds will abate the nuisance or other cause for impoundment, otherwise remedy the reason for impoundment, and reimburse and compensate the city for expenses owing pursuant to § 18.20.020.

(D) The written decision of the Port Director is a final administrative decision when mailed to each party requesting a hearing, and may be appealed only to the Superior Court. Any appeal must be commenced within thirty (30) days of the date of mailing of the decision.

§ 18.20.050 SALE OF IMPOUNDED VESSELS.

(A) In the event a vessel remains impounded for 90 days and impound charges and expenses remain unpaid, the Harbormaster may sell the vessel at public auction to the highest and best bidder as provided in this section.

(B) Not less than 20 days prior to sale, the city shall publish a notice of sale once in a newspaper of general circulation in the city. The notice shall describe the vessel in general terms; the name and/or number of the vessel; the name and address of each vessel operator, if known; the location of the vessel; and the intention of the city to sell the vessel at public auction on a day and at a time certain for cash to the highest and best bidder.

(C) The person whose bid is accepted shall immediately pay the Harbormaster the full purchase price, if the bid is no more than \$5,000; or a deposit of at least \$5,000 or 10% of the bid, whichever sum is greater, if the bid exceeds \$5,000. The bidder shall pay the balance of the purchase price within three days thereafter, excluding Saturdays, Sundays and holidays. A person who fails to pay the balance of a bid within the time required is deemed to be in default, and the Harbormaster may, in his discretion, give that person further time to pay the balance, sell to the second highest bidder, or conduct a new sale, as seems appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the Harbormaster by reason of the default, including costs incident to resale. The balance of the deposit, if any, shall be deposited into the Port Enterprise Fund. A successful bidder who pays the balance of the bid after the time required by this subsection, or otherwise takes delivery of the vessel after the time payment of the full purchase price was due, shall also pay the Harbormaster the cost of keeping the vessel from the date payment of the balance was due to the date the bidder takes delivery of the vessel. The Harbormaster shall refuse to release the vessel until the full purchase price, plus any costs for keeping the vessel after the time payment of the full purchase price was due, is paid.

(D) After the full purchase price plus any costs are paid by the successful bidder to the Harbormaster, the city shall make and deliver its bill of sale, without warranty of title, for the vessel to the successful bidder. Failure of a party to give or receive required notice of the impoundment, sale or other action shall not affect the title of the purchaser of the vessel.

(E) The proceeds of such sale shall be first applied to the costs of sale, then to impoundment expenses, then to delinquency charges accrued, then to moorage and service fees accrued. Any balance remaining shall be held in trust by the city for the owner of the vessel to claim. If the balance is not claimed within five years, the balance shall be deposited into the Port Enterprise Fund.

(F) If at any public sale there are no bidders for a vessel, the city may declare the vessel to be surplus property and sold at a city surplus property sale, or the vessel may be destroyed, scuttled or otherwise disposed of. Any disposition under this subsection shall be without liability of the city, the Harbormaster or any of their employees or

agents to the vessel owner, its operator, or anyone else holding liens, claims or other interests in the vessel.

§ 18.20.060 ABATEMENT OF NUISANCES.

(A) Upon the Harbormaster's written determination that a condition described in UCO 18.20.010(A) exists that constitutes a clear and present danger to the public health, safety or general welfare, the nuisance may be summarily abated by the Harbormaster without prior notice. The Harbormaster may take immediate possession and/or impound and remove any nuisance or property creating a nuisance on port facilities property.

(B) All ~~other~~ personal property, including but not limited to machinery, equipment, gear, appliances and furniture, placed or stored on port facilities property without the express permission of the Harbormaster shall be considered to be a hazard and a hindrance to the public use of port facilities. Such property shall be subject to impound if not removed, or written permission from the Harbormaster for such placement or storage is not received, within 24 hours of placement on port facilities property.

(C) Immediately upon impounding any property, the city shall cause to be posted on the property and in five public locations throughout the city a notice of such action. A copy of the notice shall be mailed, by registered or certified mail, to the person who the Harbormaster determines through the exercise of due diligence is the owner of the property and to all other persons known to have an interest in the property

(D) Property impounded under this section shall be subject to an impound fee to be set by ordinance, plus all costs of impoundment including labor, and a storage charge to be set by ordinance for each day the property remains in the Harbormaster's possession. All impound charges and fees shall be paid in full and in certified funds, before the Harbormaster may release the impounded property to its owner.

(E) A person with a property interest in impounded property may obtain a prompt hearing before the Port Director by submitting a written request for a hearing no later than 10 days after receipt of notice of impoundment or learning of the impoundment whichever is earlier. If following the hearing it is determined the property was improperly impounded it shall be released to the property owner.

(F) In the event property impounded under this section remains impounded for 90 days after written notice of impound is issued to the person who the Harbormaster determines through the exercise of due diligence is the owner of the property and impound charges and fees remain unpaid, the Harbormaster may sell the property at public auction to the highest and best bidder. Such sale shall be conducted pursuant to a procedure generally similar to that set forth in § [18.20.060](#) for sale of impounded

vessels. If impounded property is without value, it shall be destroyed and otherwise disposed.

(G) Upon impoundment of property, it shall be unlawful for any person:

(1) To take, move, or access such property without written permission from the Harbormaster ~~pursuant to this section.~~

(2) To remove, mutilate, destroy or conceal any notice or sign posted by the Harbormaster ~~pursuant to this section.~~

§ 18.20.070 LIABILITY.

The city and its agents shall not be responsible or otherwise liable for damages incurred as a result of authorized possession, impoundment and/or sale of a vessel or other property if all reasonable and safe practices are employed and all procedures set forth in this chapter are followed.