

Title 11

PORT AND HARBOR FACILITIES

Chapters:

- 11.04    General Provisions
- 11.08    Administration and Enforcement
- 11.12    Collection of Fees and Charges
- 11.16    Moorage and Harbor Use Privileges
- 11.20    Unlawful Acts
- 11.24    Pollution Control
- 11.28    Nuisances Declared--Removal
- 11.32    Impounded Vessel--Disposition Procedure

Chapter 11.04

GENERAL PROVISIONS

Sections:

- 11.04.010    Purpose of provisions.
- 11.04.020    Description of port and harbor facilities.
- 11.04.030    Small boat harbor--Area designated.
- 11.04.040    Port of Cordova--Area designated.
- 11.04.050    Conflicts with federal laws and regulations.
- 11.04.070    Use of revenues.

11.04.010    Purpose of provisions.    A.    The purposes of the port and harbor regulations set forth in this title are to protect and preserve the lives, health, safety and well-being of the people who have property in, or use or work upon the boat therein, or who use the facilities in the course of visits for commercial or pleasure purposes; to protect the property of such boat owners by regulating the harbor and its facilities to insure the widest possible public use thereof; to prevent the maintenance of nuisances, fire and health hazards; and to make reasonable charges for the use of certain facilities to enable the city to pay the costs of maintenance, operation and supervision of the port and harbor facilities from the revenues derived there from.

      B.    All of the sections of this title shall be liberally construed for the accomplishment of the purposes described in this chapter.    (Ord. 641 (part), 1988).

11.04.020 Description of port and harbor facilities. The Cordova Small Boat Harbor is a public facility, maintained and operated by the city. The Port of Cordova is owned, maintained and operated by the city. (Ord. 641 (part), 1988).

11.04.030 Small boat harbor--Area designated. All that portion of the city and tidelands seaward of and adjacent thereto and bounded on the north by the south boundary of the Cordova Industrial Park Tract, on the southeast by the northwest boundary of the South Fill Development Park, on the east by the west boundary of the Tidewater Fill Development Park, and on the west and southwest by the breakwater, and by a line connecting the northern end of the breakwater and the southwest corner of the Cordova Industrial Park Tract, also to include all that portion of the approach to and the city dock proper, and all that portion of the approach to and the dock proper, and the boat launch ramp which are located on the North Fill Development Park, and all seaplane floats on the Nirvana Park spit, shall be and the same is set apart and dedicated to use as a public landing, moorage area, and dock facility operated by the city manager for use and benefit of the public and governed by the provisions of this title and regulations duly promulgated hereunder. (Ord 903, 2001: Ord. 763, 1995: Ord 641 (part), 1988: ).

11.04.040 Port of Cordova--Area designated. The Port of Cordova is described as follows:

Beginning at the northeasterly corner of ATS 220 where it intersects USMS 902 thence N53 degrees 00 minutes W a distance of 2,047.36 feet being the westerly boundary of ATS 220 thence following the westerly boundary of ATS 220 to a point where it intersects with the small boat harbor breakwater thence returning to the point of beginning using the shoreline as the eastern boundary and including all of ATS 1589, ATS 1004 and the Ocean Dock Subdivision. (Ord 903, 2001: Ord. 641 (part), 1988).

11.04.050 Conflicts with federal laws and regulations. When any section of this title is found to be in conflict with federal laws and regulations governing the equipping, operation and licensing of boats and vessels on navigable waters of the United States, then such federal laws and regulations shall prevail, but the remaining sections of this title shall not be affected. (Ord. 641 (part), 1988).

11.04.070 Use of revenues. All revenues from the Port of Cordova and from the Cordova Small Boat Harbor shall be expended for the maintenance, operation and improvement of the Port of Cordova and the Cordova Small Boat Harbor and other lawful purposes as the city council may direct. Accounting within this fund shall be on the enterprise fund basis. (Ord. 641 (part), 1988).

## Chapter 11.08

### ADMINISTRATION AND ENFORCEMENT

#### Sections:

- 11.08.010 Harbormaster--Jurisdiction.
- 11.08.020 Harbor commission.

11.08.010 Harbormaster--Jurisdiction. A. The city manager shall employ a harbormaster who shall have general control and supervision of public landings and related Port and Small Boat Harbor facilities and shall preserve order at all times about the same. The harbormaster shall enforce all regulations, tariffs and ordinances governing public use of the small boat harbor and port facilities.

B. The harbormaster shall be a peace officer of the city, and as such shall enforce all ordinances and regulations governing the public use of the small boat harbor and the Port of Cordova. The jurisdiction of the harbormaster shall not extend beyond the area included within the small boat harbor and port facilities.

C. The harbormaster 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.

D. The utilization of any city-owned or city-operated mooring facility or waterway within the port or small boat harbor shall be deemed as a grant of authority to the city manager, harbormaster, or any other person authorized by the city council to board the vessel for the purpose of enforcing this title and to move the vessel if it is moored in violation of any provision of this title or if required by an emergency or other provisions set forth in this title.

E. The harbormaster is granted the power and authority to, from time to time, but without any obligation or duty to do so, and without any obligation or liability on his part or that of the city for his failure to do so, replace defective mooring lines, pump vessels which are in dangerous condition for lack thereof, and to move any vessel for the purpose of protecting the vessel from fire or other hazard, or for the protection of other vessels there from. Whenever the harbor-master shall perform any of the acts hereinbefore authorized, after having given notice to the vessel owner or operator at the registered address of the immediate need therefore, or having attempted to give such notice, the vessel and owner thereof is required to pay to the city such fees as are set forth by the city council by resolution.

F. The authority granted to the harbormaster shall not create an obligation or duty requiring the harbormaster to take any action to protect or preserve any vessel or property located within the port or harbor or utilizing the port or harbor facilities. The

city shall not be responsible for loss or damage from fire or other casualty, or theft, vandalism or any other causes of injury to vessels or property moored or located within the Port of Cordova or the Cordova Small Boat Harbor. The city shall not be responsible for any items, which have been impounded.

G. The harbormaster shall classify areas within the port and harbor for various uses, shall mark reserved and transient mooring areas, loading zones, and shall post such other signs, markings numbers or informational devices as will notify and inform interested parties of authorized and prohibited uses of the port and harbor.

H. "Harbormaster" means the official hired by the city manager to serve as harbormaster, and any other city employee authorized or designated by the harbormaster or city manager to enforce the provisions of this title. (Ord. 641 (part) 1988).

11.08.020 Harbor commission. A. A harbor commission shall be established for the purpose of advising the city council on the operation, maintenance and improvement of the city's port and harbor facilities, and for such additional purposes as the city council may from time to time designate. The harbor commission shall consist of five voting members. The city manager and harbormaster shall be ex officio members of the commission and shall have the right of the floor to participate in all discussions; however, they shall not have a vote. The commission shall elect a chairman and vice chairman from its membership each January.

B. Only residents of the city who qualify as municipal voters pursuant to Section 2.08.010 of this code shall be entitled to serve on the harbor commission. The council from its number shall designate one of the members of the commission. Each of the remaining four members shall be nominated by the mayor and confirmed by the council.

C. Terms of membership for the members, not including the council member, shall be for three years each or until a successor in office is appointed by the council. Terms of individual members shall be overlapping, and shall commence January 1st of each year. The member from the council shall serve at the pleasure of the council. Members shall serve without compensation.

D. The harbor commission shall hold a minimum of one meeting per quarter or as needed at a date, time and place as set by the commission, except that the commission shall not be required to have meetings during the fishing season or any like period as may hereafter be set by the commission, during any given year, said period not to exceed six months.

E. The harbor commission shall conduct its meeting in accordance with Robert's Rules of Order.

F. The unexpired portion of any term remaining after a vacancy exists on the commission shall be filled as the original appointment.

G. The harbor commission shall recommend for adoption by the city council a general plan for the harbor, harbor rules and regulations, and harbor privilege fees, payments and assessments, which recommendation shall be presented to the city council, in writing, by the city manager at the first regular city council meeting in the month of March each year.

H. The harbor commission shall review all plans for construction and development within the confines of the port and harbor or anywhere within ATS 220, and shall report to the city council the expected impact of such construction or development on the port and harbor. The harbor commission shall make appropriate recommendations

to the council concerning such construction or development. (Ord 908, 2002: Ord. 641 (part), 1988).

## Chapter 11.12

### FEES

#### Sections:

- 11.12.010 Duty of vessel owners to pay charges.
- 11.12.020 Fees for use of port and harbor facilities.
- 11.12.030 Delinquent accounts.
- 11.12.040 Lien created.
- 11.12.050 Other remedies.

11.12.010 Duty of vessel owners to pay charges. The owners or operators of vessels or aircraft using any port or harbor facility or service shall pay the charges thereon established by resolution of the city council. (Ord. 641 (part), 1988).

11.12.020 Fees for use of port and harbor facilities.

A. All rates, fees and charges for the use of facilities and services of the Port of Cordova and Cordova Small Boat Harbor shall be established by resolution of the city council.

B. All annual and monthly moorage fees, reserved or transient, must be paid in advance to the city for the period prescribed and may be billed on account to the customer for future periods. All other fees not paid in advance shall be billed on account to the customer. All fees shall be non-refundable, except that pro rata refunds of moorage fees may be made, upon the approval of the city manager, due to death of the owner or accidental loss of the vessel by sinking, fire or theft. Any reduction in the moorage fee due to a substituted moorage agreement is not applied retroactively, and the owner or operator is not entitled to a pro rate adjustment of the moorage fees already due or paid.

C. Transient moorage fees for less than a twenty-four hour period shall be computed and assessed as follows:

1. The fee for a period of twelve hours or less shall be one-half of the daily moorage fee.

2. The fee for a period greater than twelve hours and not more than twenty four hours shall be the daily moorage rate.

D. Rates, fees and charges billed to a customer shall be due and payable on or before the earlier of (i) the last day of the month following the date of billing, or (ii) the due date stated on the city billing notice. Rates, fees and charges that are not paid when due shall be considered delinquent. (Ord. 951 (part), 2004: Ord. 901, 2001; Ord. 641 (part), 1988).

11.12.030 Delinquent accounts. Delinquent accounts shall be subject to collection procedures as followed by the city and as allowed by federal and state laws. Further, a penalty of five dollars shall accrue to such account for each calendar month or

portion thereof the account is delinquent. In addition to a penalty, delinquent accounts shall accrue interest at a rate of ten percent per year on the unpaid delinquent balance. (Ord. 951 (part), 2004: Ord. 641 (part), 1988).

11.12.040 Lien created. In addition to any other remedy provided for herein or at law, all mooring, grid 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, under the provisions of AS 34.35.175 and AS 34.35.220. Fees and charges remaining unpaid for ninety consecutive days after due may be foreclosed by impounding and selling the vessel against which the lien has vested under the provisions of Chapter 11.32. (Ord. 641 (part), 1988).

11.12.050 Other remedies. All liens created shall not be exclusive remedies. A proceeding to foreclose any lien or suit thereon by the city shall not preclude any other remedy, including impoundment as above, at law or in equity. The procedure for foreclosure or suit thereon of any lien shall be as set out in applicable state or federal law. (Ord. 641 (part), 1988).

## Chapter 11.16

### MOORAGE AND HARBOR USE PRIVILEGES

#### Sections:

- 11.16.010 Duty to register.
- 11.16.020 Safeguarding.
- 11.16.030 Utilization of mooring facilities.
- 11.16.040 Transient mooring spaces.
- 11.16.050 Reserved mooring spaces.
- 11.16.060 Denial of facilities, equipment or services.
- 11.16.070 Safe condition of vessel.
- 11.16.080 Accident reports.
- 11.16.090 Fire hazards prohibited.
- 11.16.100 Testing of waste oil.
- 11.16.110 Operation of commercial businesses

11.16.010 Duty to register. A. Every owner, operator, agent of any vessel or aircraft using the facilities of the small boat harbor is required to register the name, address and telephone number of the registered owner, operator and agent of the vessel or aircraft; the vessel's length, breadth, registered tonnage (if any) description and uses, and any other pertinent information required by the harbor-master on forms provided to him for that purpose, and pay the required fees immediately, but no later than twenty-four hours after first using any facilities; and shall execute an agreement providing for payment of moorage fees and other charges.

B. In the event of a change of ownership or in operator, a new vessel mooring agreement shall be signed within thirty days after the change. (Ord. 641 (part), 1988).

11.16.020 Safeguarding. Every vessel or aircraft owner or operator shall

use all reasonable effort and precautions in keeping the vessel or aircraft in his charge well-secured with mooring lines in reasonable fit condition, sufficiently pumped at all times to keep afloat, free from fire hazards of any kind, and to otherwise attend to the needs of the vessel or aircraft. (Ord. 641 (part), 1988).

11.16.030 Utilization of mooring facilities. The harbormaster shall classify all mooring spaces in the boat harbor facilities as either transient mooring or reserved mooring. (Ord. 641 (part), 1988).

11.16.040 Transient mooring spaces. Areas designated for transient mooring shall be open to all members of the public. Such areas shall be used primarily for temporary mooring. Transient mooring spaces shall be utilized on a "first-come-first-served" basis. No vessel or vessel owner shall have any exclusive right to transient mooring space. Should any vessel leave a transient mooring space for any purpose, it shall have no exclusive right to return to the same space if, upon return, that space is occupied by another boat. (Ord. 641 (part), 1988).

11.16.050 Reserved mooring spaces. A. Every vessel owner desiring reserved mooring space shall apply therefore to the harbormaster. The harbormaster shall lease such space, if available, on an annual basis. The harbormaster shall assign such reserved moorage so as to achieve the most efficient use of harbor space.

B. The harbormaster has full authority and responsibility for making reserved mooring assignments. Reserved moorage spaces may not be assigned or subleased by the owner or operator of the vessel entitled to such reserved space. Only the harbormaster may make temporary arrangements.

1. All houseboats shall be restricted to space available on I Float. If such space is not available, those vessel owners requesting such moorage may be placed on a slip assignment waiting list.

C. During such periods when the assigned vessel will not be utilizing reserved moorage space, the harbormaster may assign such space for transient moorage. Upon notice by vessel entitled to reserved moorage, the harbormaster shall cause the removal of any transient vessel utilizing the reserved moorage space. Immediately upon notice from the harbormaster, the owner or operator of such temporarily assigned transient vessel shall remove the vessel from the assigned space. If the vessel owner fails to move immediately upon receipt of such notice, the harbormaster may move the vessel from the reserved space, and the owner shall be charged such fee as established by resolution of the city council. In case the harbormaster is unable to contact the owner or operator of such temporarily assigned transient vessel, the harbormaster may move the vessel from the reserved space.

D. If a vessel owner with reserved moorage sells the vessel or loses the vessel to fire, sinking or natural disaster, he may retain the reserved space for a period of one year, beginning on the next anniversary date of his vessel mooring agreement. If the vessel has not been replaced by the end of that period, the reserved moorage agreement shall be terminated. The harbormaster may assign such stalls for temporary use during their vacancy.

E. No property rights are created by this section or this title. The holder shall have only a license to use the space reserved to him as provided in this title.

F. Both the owner and the operator of a vessel which moors in a reserved

mooring space without the written permission of the harbormaster shall be guilty of a misdemeanor and the vessel shall be deemed to trespass. (Ord. 823 (part), 1999: Ord 671, 1990; Ord 641 (part), 1988).

11.16.060 Denial of facilities, equipment or services. A. The harbormaster may, at his discretion, refuse the use of any port or harbor facilities to houseboats, 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.

1. For purposes of this title, a houseboat is described to be any vessel used or maintained primarily as a residence.

2. Houseboats must meet the following requirements to qualify for moorage within the small boat harbor:

a. Maximum length allowed... 40 feet

b. Maximum beam allowed... 16 feet. If over 16 feet, harbormaster would require vessel to reserve and pay for two slips.

c. Maximum height allowed... from waterline to roof peak must not exceed two-thirds of vessel's beam measurement.

B. The harbormaster may refuse moorage facilities or other services or equipment to any person or vessel in violation of the provisions of this title or delinquent in the payment of any authorized fee or charge. (Ord. 823 (part), 1999: Ord 641 (part), 1988).

11.16.070 Safe condition of vessel. A. To qualify or remain qualified for moorage space a vessel must:

1. At all times meet federal, state and local laws, which include those pertaining to navigational and safety equipment;

2. Have a fixed propulsion system and have sufficient motive power to permit the vessel to be maneuvered and controlled safely while transiting, entering or leaving the small boat harbor under wind and water conditions which are not unusual;

3. Be completely seaworthy and ready for immediate cruising in local waters; and

4. Shall not discharge of sewage into the waters of the small boat harbor.

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 may be made where repairs are being diligently pursued or where other extenuating circumstances prevent demonstration of qualification, but such exception shall be for only a reasonable time, considering the circumstances.

C. The harbormaster may refuse mooring space to any vessel which does not qualify; it shall be a condition of every moorage agreement that any vessel authorized to moor in the 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 moorage agreement has been terminated, that such vessel be removed from the small boat harbor within one week. Any such vessel remaining after the time specified in the notice shall be subject to impoundment or removal as a nuisance. (Ord. 823 (part) 1999: Ord

641 (part), 1988).

11.16.080 Accident reports. The operator of any vessel involved in an accident within the Port of Cordova or the Cordova Small boat Harbor resulting in the death or injury of any person or damage to property in excess of five hundred dollars shall immediately give oral notice of the accident to the harbormaster, or if he is unavailable to receive the notice, to the Cordova police department. In addition, the operator shall, within twenty-four hours after the accident, file a written report with the harbormaster containing the name of the vessel, the name of the vessel owner and operator, a description of the accident, a description of the resulting injuries or damage, a description of possible causes or contributing factors, and such other information as the harbormaster may require. Failure of the operator to report the accident as herein specified shall be a misdemeanor punishable by a fine of one hundred dollars. (Ord. 641 (part), 1988).

11.16.090 Fire hazards prohibited. A. No person may leave a fire or flame unattended aboard a vessel in the Cordova Small Boat Harbor.

B. No person may store, deposit or leave on any float, dock or other harbor facility any gasoline, lubricating oil or other combustible liquid of any nature or description, except for temporary purposes in conjunction with the loading or unloading of a vessel.

C. A person using a torch or other flame-producing device in or upon any vessel, dock, float or other boat harbor facility shall provide and have immediately available for use an approved fire extinguisher adequate for suppressing any fires that may result from the use of the flame-producing device.

D. No person shall ignite or detonate fireworks within the boundaries of the small boat harbor, except by permit from the fire chief. (Ord. 641 (part), 1988).

11.16.100 Testing of waste oil. The operator of any vessel desiring to dispose of one hundred gallons or more of waste oil at the Port of Cordova or Cordova Small Boat Harbor shall be required to provide the harbormaster with a test certificate from a testing firm approved by the harbormaster, to show that such oil meets all state and federal standards for disposal as oil to be burned for energy recovery, and shall provide any other test certificates as may be required by the harbormaster. Such test certificates must be presented prior to acceptance of any oil by the port or small boat harbor, and the cost of testing shall be borne by the vessel or its operator. (Ord. 641 (part), 1988).

11.16.110 Operation of commercial businesses. A. Except for boat or vessel rentals or charters, or other businesses directly related to navigation or commerce on the sea, including fishing, no commercial businesses shall be allowed to operate in mooring spaces in the small boat harbor unless specifically authorized by resolution of the Harbor Commission.

B. Notwithstanding paragraph A of this section, any commercial business operating in a mooring space in the small boat harbor on April 3, 2003 pursuant to valid state and local business licenses and as of such date not in violation of any applicable statute, ordinance or regulation or contract with the City, and not delinquent in any

obligation to the City, may continue to operate such commercial business, provided however, that such commercial business must sign a waiver of liability in such form as the City Manager shall determine and that if such commercial business is sold or operations are discontinued for a continuous period of more than one hundred twenty days, paragraph A shall apply. (Ord. 923 (part), 2003).

## Charter 11.20

### UNLAWFUL ACTS

#### Sections:

11.20.010	Animals.
11.20.020	Wheeled equipment.
11.20.030	Mooring restricted.
11.20.040	Obstruction of floats.
11.20.050	Unauthorized bumpers.
11.20.060	Blinding lights.
11.20.070	Obstruction of waterways.
11.20.080	Reckless operation.
11.20.090	Excessive wake.
11.20.100	Unauthorized signs.
11.20.110	Unauthorized construction.
11.20.120	Water contact sports prohibited.
11.20.130	Parking in fire lanes.
11.20.140	Unauthorized blocking of stored vessels.

11.20.010 Animals No person shall permit any dog or animal to enter the harbor facilities unless such dog or animal is restrained on a leash. The owner or person in charge of such dog or animal shall be in charge of removing and disposing of any feces deposited by the animal on any harbor facility. (Ord. 641 (part), 1988).

11.20.020 Wheeled equipment. No person shall ride a bicycle or any wheeled or tracked motorized piece of equipment upon the float facilities except as authorized by the harbormaster. (Ord. 641 (part), 1988).

11.20.030 Mooring restricted. Except in case of extreme emergency, no vessel may anchor within the confines of the harbor or be moored anywhere except at the designated floats or docks without the prior consent of the harbormaster. A vessel so moored for emergency purposes is still required to immediately check in with the harbormaster or the department of public safety. (Ord. 641 (part), 1988).

11.20.040 Obstruction of floats. No person shall deposit, place or leave any cargo, merchandise, supplies, freight, articles or thing upon any float, ramp, wharf, decline, walk or other public place in the harbor facilities, except for a maximum of one hour at such places as may be designated as loading and unloading spaces by the

harbormaster. Fishing nets shall be excepted from this section. (Ord. 641 (part), 1988).

11.20.050 Unauthorized bumpers. No person may utilize in the small boat harbor float bumpers that are attached, permanently or temporarily to the float facilities made from used tires, old fire hose, or similar materials. The owner or operator of a vessel assigned reserved moorage space may install standardized premolded rubber or vinyl bumpers of commercial manufacture as approved by the harbormaster. (Ord. 641 (part), 1988).

11.20.060 Blinding lights. No person may operate a vessel searchlight or other bright light in a manner that will temporarily blind or interfere with the vision of the operator of any other vessel in the harbor. (Ord. 641 (part), 1988).

11.20.070 Obstruction of waterways. No person may tie or attach a skiff, scow, raft or any other auxiliary craft alongside, astern or ahead of a vessel moored within the harbor if such auxiliary craft will obstruct or interfere with the normal movement of any vessel or be likely to cause rubbing or chafing damage to any other vessel. (Ord. 641 (part), 1988).

11.20.080 Reckless operation. The operation of any vessel in any manner which unreasonably interferes with the free and proper use of the harbor or unreasonably endangers the users of the waters of the harbor is prohibited. (Ord. 641 (part), 1988).

11.20.090 Excessive wake. The speed of any boat, vessel or aircraft within the harbor shall not exceed three knots and shall create no wake, wash or wave action which will damage, endanger or cause undue distress to any harbor facility, other vessel or occupant thereof. (Ord. 641 (part), 1988).

11.20.100 Unauthorized signs. No person shall erect, place, post or maintain any advertising matter, sign or other printed matter, other than legal notices, on any part of the harbor facilities without approval thereof from the harbormaster. All signs authorized by the harbormaster shall conform to the provisions of Chapter 13.20 of this code. All unauthorized advertising and signs shall be removed by the harbormaster. (Ord. 641 (part), 1988).

11.20.110 Unauthorized construction. No persons shall construct any improvement, building, pier, piling fence, gate or other facility, commercial or residential, or for any other purpose within the confines and exterior boundaries of the small boat harbor unless he first: (i) petitions for and receives approval of building plans and specifications from the planning commission; (ii) presents in writing a proposal for land use to the city council which shall include a precise description of land area required, summary of proposed use of facility, and proposed a payment of ground rent to the city; (iii) upon city council approval enters into a written contract of lease or right of entry for such land use upon such terms, limitations and conditions consistent with law as may be required by the city council. (Ord. 641 (part), 1988).

11.20.120 Water contact sports prohibited. A. It is unlawful for any person to engage within the small boat harbor in any recreational activity in which the body of the person comes into physical contact with water, including, but not limited to, swimming, wind surfboarding, paddle boarding or diving, unless written application is made and permission is obtained in advance from the harbormaster. The harbormaster shall develop such procedures and regulations as may be necessary for the granting of permission as modified if necessary, upon adoption by the city council by resolution.

B. Upon notification to the harbormaster it shall be lawful for a person to engage within the small boat harbor in the activity of diving if the purposes for which the dive is being conducted are related: (i) to the inspection, maintenance or repair of any vessel moored within the small boat harbor, or of any equipment attached thereto; or (ii) to the inspection, maintenance repair, construction or improvement of port and harbor facilities. All divers shall prominently display a diver's-down flag in the area in which the diving occurs with a minimum size of twelve inches by twelve inches. No diver shall be submerged below the surface of the water without providing an observer at the surface. All divers shall observe all appropriate diving safety precautions. (Ord. 641 (part), 1988).

11.20.130 Parking in the lanes. Parking unattended vehicles in fire lanes or approach trestles of the small boat harbor shall be a violation of this section. The penalty for violation of this section is seventy-five dollars. (Ord. 864, 2000: Ord 641 (part), 1988).

11.20.140 Unauthorized blocking of stored vessels. No fifty-five gallon drums will be used to block any vessel stored within the Port of Cordova All blocking for vessels stored within the port must be approved by the harbormaster. (Ord. 641 (part), 1988).

## Chapter 11.24

### POLLUTION CONTROL

#### Sections:

- 11.24.010 Petroleum spills prohibited.
- 11.24.020 Petroleum pollution prevention devices required.
- 11.24.030 Petroleum spill reporting required.
- 11.24.040 Enforcement.
- 11.24.050 Waiver of rights.
- 11.24.060 Refusal of search.
- 11.24.070 Violation--Penalties.

11.24.010 Petroleum spills prohibited. It is unlawful for any vessel owner or owner's agent or any other person to spill or allow to be spilled any petroleum product within the small boat harbor. (Ord. 641 (part), 1988).

11.24.020 Petroleum pollution prevention devices required. All vessels moored in the small boat harbor shall be required to have aboard them at all times a device designed to prevent petroleum products from being pumped or otherwise spilled overboard into the waters of the small boat harbor. However, open skiffs powered by outboard engines and with no inboard machinery are exempted from this requirement. The following devices are approved types for purposes of this chapter:

- A. Absorbent materials designed to soak up petroleum products;
- B. Oil-water separators designed to be located on the outlet side of a bilge pump in such a manner as to remove any petroleum products from the bilge waters being pumped overboard. These pollution-prevention devices must be cleaned or drained or replaced as required by the manufacturer or as frequently as necessary to insure their proper operation. (Ord. 641 (part), 1988).

11.24.030 Petroleum spill reporting required. Any person having knowledge of a petroleum spill within the small boat harbor shall immediately report such spill to the harbormaster or his designee or to the department of public safety. (Ord. 641 (part), 1988).

11.24.040 Enforcement. A. In the event that the harbormaster or his designee has reason to believe that a certain vessel is responsible for an instance of petroleum pollution in the small boat harbor, he shall make request of the vessel's owner or owner's agent to investigate the suspect vessel for the purpose of determining if the pollution devices are in place as required by this chapter or for purpose of sampling a suspected pollution source.

B. If the vessel's owner or the owner's agent agrees to the investigation, he shall sign the following form:

"WAIVER OF SEARCH

I, \_\_\_\_\_ having been informed of my constitutional rights not to have a search made of the vessel hereinafter mentioned without a search warrant and of my right to refuse consent to such a search, hereby authorize \_\_\_\_\_ Harbor Master/Harbor Master's designee of the City of Cordova to conduct a search of my vessel \_\_\_\_\_ located at Float \_\_\_\_\_, Stall \_\_\_\_\_ Cordova Small Boat Harbor for the purpose of determining if the required pollution devices are in place and properly maintained and to sample any suspected pollution source. This officer is authorized by me to take from my vessel any materials or other property, which he may deem necessary on enforcing the pollution control ordinance.

I am giving this written permission to the above named Harbor Master or his designee voluntarily and without threats or promises of any kind.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness  
(Ord. 641 (part), 1988).

11.24.050 Waiver of rights. If the harbormaster or his designee believes that the vessel owner or the owner's agent may make a statement that could be used against him in court, the harbormaster or his designee must read and provide the vessel owner or the owner's agent their individual rights and provide them a copy of same. The rights provided shall state:

"Before we ask you any question, you must understand your rights.

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. You have the right to talk to a lawyer and have him present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish.
5. You can decide at any time to exercise these rights and not answer any questions or make any statements."

Thereupon the vessel owner or owner's agent shall be requested to sign the following form:

**'WAIVER OF RIGHTS**

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Time and Date

\_\_\_\_\_

Witness

(Ord. 641 (part), 1988).

11.24.060 Refusal of search. If a vessel owner or the owner's agent refuses to allow the harbormaster or his designee to investigate his vessel, the harbormaster may follow the approved procedure to acquire a search warrant. (Ord. 641 (part), 1988).

11.24.070 Violation--Penalties. A. Failure to obey or comply with any provision of this chapter or any rule, order or regulation issued hereunder is a violation.

B. The minimum penalty upon conviction for a violation under this subsection is fifty dollars; provided, however, that the penalty for second or other subsequent violations shall be no less than fifty dollars or no more than three hundred dollars for each such violation. (Ord. 688 ~18, 1991; Ord 641 (part), 1988).

## Chapter 11.28

### NUISANCES DECLARED--REMOVAL

#### Sections:

- 11.28.010 Derelicts.
- 11.28.020 Other nuisances.
- 11.28.030 Abatement or disposal.
- 11.28.040 Abandoned property.
- 11.28.050 Sunken or obstructive vessels.
- 11.28.060 Floating objects.
- 11.28.070 No custody of derelicts.

11.28.010 Derelicts. For the purposes of this title and in the interest of the greatest use of the facilities of the boat harbor and the municipal waters by the general public, vessels in the 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 Section 11.16.070, or which are maintained in a manner as to constitute a fire hazard, and sunken vessels and vessels in imminent danger of sinking, are declared to be nuisances and subject to abatement and removal from the boat harbor or other municipal waters, by the city or its agents, without liability on the city or its agents for any damage done by virtue of the removal or for any of its consequences. (Ord. 641 (part), 1988).

11.28.020 Other nuisances. Refuse of all kinds, brine, slime and fish processor waste, structures or pieces of any structure, dock sweepings, dead animals or parts thereof, timber, logs, piles, broomsticks, lumber, boxes, paint, plastic bags, empty containers and oil of any kind floating uncontrolled on the water, and all other substances or articles of a similar nature are declared to be public nuisances, and it shall be unlawful

for any person to throw or place in or permit to be thrown, or placed any of the above-named articles or substances in the boat harbor or the municipal waters, either by high tides, storms, floods or otherwise. Nets, gear and other material left on any float or dock for more than twenty-four hours are declared a nuisance, and shall be tagged with a warning tag by the harbormaster. Any person causing or permitting the nuisances to be placed as aforesaid shall remove the same and upon his failure to do so within twenty-four hours of tagging of the nuisance by the harbormaster, 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, all costs of such removal or storage shall be paid by and recoverable from the person creating the nuisance. The abatement of any such public nuisances shall not excuse the person responsible there-for from prosecution under this chapter. (Ord. 641 (part) 1988).

11.28.030 Abatement or disposal. Nuisances described under this chapter constituting a clear and present danger to the public health, safety or general welfare may be summarily abated. Vessels declared nuisances under Section 11.28.010, which do not constitute a clear and present danger to the public health, safety or general welfare, may be removed, impounded and disposed of as provided in Chapter 11.32. Other nuisances under Section 11.28.020 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 to the owner of the nuisance. (Ord. 641 (part), 1988).

11.28.040 Abandoned property. Any vessel in the boat harbor or in any of the municipal waters, which is abandoned, may be impounded, sold or otherwise disposed of as provided herein. Failure of any vessel owner, master, operator or managing agent to register, pay moorage fees or service fees provided by this title shall be presumed to constitute abandonment. (Ord. 641 (part), 1988).

11.28.050 Sunken or obstructive vessels. When any vessel or watercraft or obstruction has been sunk or grounded, or has been delayed in such manner as to stop or interfere with or endanger navigation, moored boats or any harbor vessels, the harbormaster may order the same immediately removed, and if the owner or other person in charge thereof after being so ordered does not proceed immediately with such removal the harbormaster may take immediate possession thereof and remove the same, using such methods as in his judgment will prevent unnecessary damage to such vessel or watercraft or obstruction, and the expense incurred by the harbormaster in such removal shall be paid by such vessel or watercraft or obstruction or the owner or other person in charge thereof; and in case of failure to pay the same the city may maintain an action for the recovery thereof. (Ord. 641 (part), 1988).

11.28.060 Floating objects. All vessels, watercraft, logs, piling, building material, scows, houseboats or any other article of value found adrift in the municipal waters of the Port of Cordova of small boat harbor, may be taken in charge by the harbormaster and may be subject to the reclamation by the owner thereof on payment by him to the city of any expenses incurred by the city, and in case of a failure to reclaim may be sold or disposed of as abandoned property. (Ord. 641 (part), 1988).

11.28.070 No custody of derelicts. The Cordova Small Boat Harbor and the

Port of Cordova shall not accept ownership or custody of sunken or derelict vessels.  
(Ord. 641 (part), 1988).

## Chapter 11.32

### IMPOUNDED VESSEL--DISPOSITION PROCEDURE

#### Sections:

- 11.32.010 Impoundment of boats or vessels for violations.
- 11.32.020 Storage charge.
- 11.32.030 Notice to owner.
- 11.32.040 Right to hearing.
- 11.32.050 Notice of sale.
- 11.32.060 Sale.
- 11.32.070 Other disposition.

11.32.010 Impoundment of boats or vessels for violations. The harbormaster is authorized to impound any boat or vessel in the small boat harbor whose owner, operator or agent is not aboard and which is not properly identified by name and/or number; or any boat or 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 boat or vessel in the boat harbor whose owner, operator or agent, has not paid the stall rent or any other fee or charge due the city for the boat or vessel by the due date of such rental, and such rental, fee or charge is thirty days past due, or any vessel which has failed to qualify and whose owner, operator, or agent has failed to remove in accordance with the notice given under Section 11.16.070. The harbormaster may, pursuant to this section, impound a vessel by immobilizing it or removing or having it towed 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. (Ord. 641 (part), 1988).

11.32.020 Storage charge. The owner, operator or agent of any vessel impounded by the city shall be subject to and liable for a storage charge set by the city council by resolution, and shall be subject to and liable for all costs incurred by the city by reason of the impounding or removal. (Ord. 641 (part), 1988).

11.32.030 Notice to owner. At least ten days prior to impounding any vessel, the city shall cause to be posted on the vessel, in the harbormaster's office, in the City Hall and on the bulletin board at the United State Post Office, notice of such action to be taken by the city. A copy of the notice shall be mailed to the owner, operator or agent of the vessel at his last known address, which address shall be the same as that furnished in accordance with the provisions of Section 11.16.010. The notice shall contain the name and/or number of the vessel, the name and address, if known, of the owner, operator or agent and the location of vessel. (Ord. 641 (part), 1988).

11.32.040 Right to hearing. A. As to any vessel proposed for impoundment pursuant to this chapter by or at the request of the city, its agents or employees, the owner, operator or agent 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 mailing of the notice required by section 11.32.030, whichever occurs first.

B. A hearing shall be conducted before a hearing officer designated by the city manager within forty-eight hours of receipt of a written demand therefore 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 local, municipal, state or federal law or regulations 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 in question. The harbormaster 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 thereof shall be provided to the person demanding the hearing and the owner of vessel if such owner is not the person requesting the hearing. The hearing officer's decision in no way affects 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. Failure of the owner, operator or agent to request or attend a scheduled pre-impoundment hearing shall be deemed a waiver of the right to such hearing.

C. 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, operator or agent 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 agent 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. (Ord. 641 (part), 1988).

11.32.050 Notice of sale. 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 Cordova a notice describing the vessel in general terms, the name and/or number, if any, the name and address of the owner, operator or agent, 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, operator or agent may redeem the vessel by a cash payment of all city charges against the boat. (Ord. 641 (part), 1988).

11.32.060 Sale. 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 costs of sale, then to moorage and service fees accrued, 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 port and harbor enterprise fund. Upon the sales being made, the city shall make and deliver its bill of sale, without warranty, conveying the vessel to the buyer. (Ord. 641 (part), 1988).

11.32.070 Other disposition. If at the public sale there are no responsive bidders for the vessel, the harbor commission shall recommend means for disposition of the vessel to the city council. The disposition is to be made without liability of the city, its employees or agents to the owner, operator or lien holder of the vessel. (Ord. 641 (part), 1988).