

**CITY OF CORDOVA, ALASKA  
ORDINANCE 1109**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA,  
AMENDING CORDOVA MUNICIPAL CODE TITLE 11 ENTITLED "PORT AND  
HARBOR FACILITIES" TO UPDATE ALL PROVISIONS, TO IMPROVE  
READABILITY AND CLARITY, TO COMPLY WITH FEDERAL AND STATE LAW,  
AND TO REVISE THE AUCTION PROCEDURES FOR IMPOUNDMENT OF  
NUISANCES AND THE DISPOSAL OF VESSELS**

**WHEREAS**, The City of Cordova, Alaska has not substantially updated Title 11 of the Cordova Municipal Code since acquiring ownership of the City's Port and Harbor; and

**WHEREAS**, the City's current auction procedures do not permit the City to dispose of a vessel for less than outstanding fees and costs of impoundment and do not provide a post-impoundment hearing procedure for nuisance vessels posing clear and present danger to the health, welfare, and safety of the public; and

**WHEREAS**, it is in the City's best interest to have the authority to dispose of derelict vessels in whatever means available and to revise Title 11 to comply with current federal and state law.

**THEREFORE BE IT ORDAINED** by the City Council of the City of Cordova, that:

Section 1. Cordova Municipal Code Title 11 entitled "Port and Harbor Facilities" is amended to read as follows:

**Title 11 - PORT AND HARBOR FACILITIES**

Chapters:

Chapter 11.04 - GENERAL PROVISIONS

Chapter 11.08 - ADMINISTRATION AND ENFORCEMENT

Chapter 11.12 - COLLECTION OF FEES AND CHARGES

Chapter 11.16 - MOORAGE AND ~~HARBOR~~ PORT OF CORDOVA USE  
PRIVILEGES

Chapter 11.20 - UNLAWFUL ACTS

Chapter 11.24 - POLLUTION CONTROL

Chapter 11.28 - NUISANCES DECLARED-REMOVAL

Chapter 11.32 - IMPOUNDED VESSEL-DISPOSITION PROCEDURE

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.04 – GENERAL PROVISIONS

**Chapter 11.04 - GENERAL PROVISIONS**

*Sections:*

11.04.010 - Purpose of provisions.

11.04.015 - Definitions.

11.04.020 - Description of port and harbor Port of Cordova facilities.

11.04.030 - Small boat harbor Area designated.

11.04.040 - Port of Cordova Area designated.

11.04.030 - Conflicts with federal laws and regulations.

11.04.060 - State of Alaska operations policy.

11.04.040 - 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 Port of Cordova 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~~ Port of Cordova facilities from the revenues derived therefrom.
- B. All of the sections of this title shall be liberally construed for the accomplishment of the purposes described in this chapter.

**11.04.015 - Definitions**

Unless otherwise provided or required by the context, in this title:

“Derelict” means any vessel moored or otherwise located within the City which is forsaken, abandoned, deserted or cast away, or which in the opinion of the harbormaster, is unsound, unseaworthy or unfit for its trade or occupation;

“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;

“Houseboat” means any vessel used or maintained primarily as a residence;

“Operator” means any lessee of a vessel, and master or captain who has actual physical use, control and/or possession of a vessel and who is in the employ of, or who has a contractual relationship with the owner;

“Port of Cordova” means the property 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 Cordova 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. The Port of Cordova includes the Cordova Small Boat Harbor;

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“Cordova Small Boat Harbor” means the 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, and the portion of the approach to and the City dock proper, and the portion of the approach to and the dock proper and the boat launch ramp that are located on the North Fill Development Park, and all seaplane floats on the Nirvana Park spit;

“Vessel” means any boat, motor boat, ship, aircraft when waterborne, houseboat, floats, scows, rafts, pile drivers, oil rigs or any floating structure or object used for recreational or any other purpose upon the waterways or moored or stored at any place in the City;

“Vessel Owner” means the person, persons or entity that is designated in the moorage agreement as the “owner” of the vessel;

“Waterway” means any water, waterway, lake, river, tributary or lagoon within the boundaries of the City.

**11.04.020 - Description of port and harbor Port of Cordova 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.~~

The Port of Cordova is maintained and operated by the City.

**~~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.~~

**~~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 Deck Subdivision.~~

**~~11.04.050-11.04.030 - Conflicts with federal laws and regulations.~~**

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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.

**~~11.04.060 – State of Alaska operations policy.~~**

~~It is the intent of the city to operate the Cordova Small Boat Harbor in conformance with the conditions of the lease between the city and the state.~~

**~~11.04.070~~ 11.04.040 - 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.

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.08 – ADMINISTRATION AND ENFORCEMENT

**Chapter 11.08 - ADMINISTRATION AND ENFORCEMENT**

*Sections:*

11.08.010 - Harbormaster–Jurisdiction.

11.08.020 - Harbor commission.

11.08.030 - Absences to terminate membership.

**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 ~~small boat harbor~~ Port of Cordova 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~~ Port of Cordova facilities in general.
- 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 request permission to board any vessel in the Port of Cordova at any time to inspect for compliance with this title.
- ~~CD.~~ 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.
- ~~DE.~~ The utilization of any ~~eCity-owned or eCity-operated~~ mooring facility or waterway within the ~~port or small boat harbor~~ Port of Cordova 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/or to move the vessel if it is moored in violation of any provision of this title or if required by an emergency or a provision set forth in this title.
- ~~EE.~~ 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 the harbormaster or the City for the harbormaster's failure to do so, replace defective mooring lines, pump vessels that 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, ~~therefrom~~.
- ~~FG.~~ 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~~ Port of Cordova or utilizing Port of Cordova ~~the port or harbor~~ facilities. The eCity 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 eCity shall not be responsible for any items which have been impounded.
- ~~GH.~~ The harbormaster shall classify areas within the ~~port and harbor~~ Port of Cordova for various uses, shall including marking reserved and transient mooring areas and loading zones and ~~shall post such other signs, markings numbers or informational devices as will to notify and~~ inform interested parties of authorized and prohibited uses of the ~~port and harbor~~ Port of Cordova.

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Chapter 11.08 – ADMINISTRATION AND ENFORCEMENT

- 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.~~

**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 Port of Cordova’s ~~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 eCity who qualify as municipal voters pursuant to Section 2.08.010 of this code shall be entitled to serve on the harbor commission. One of the members of the commission shall be designated by the council from its number. 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~~ Port of Cordova, ~~harbor~~ Port of Cordova rules and regulations, and ~~harbor~~ Port of Cordova ~~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~~ Port of Cordova 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~~ Port of Cordova. The harbor commission shall make appropriate recommendations to the council concerning such construction or development.

**11.08.030 - Absences to terminate membership.**

- A. If a commissioner is absent from more than one-half of all the regular meetings of the harbor commission held within the period of one year, without being excused from attending such meetings, the chair of the commission shall declare the commissioner’s seat vacant, except that in the case of a commissioner appointed from the council, the chair of the commission shall report such commissioner’s unexcused absences to the council. The commission shall determine whether any absence is excused.

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- B. For purposes of this section, an absence will be considered excused if due to the following causes and shall require approval by the commission at the next regularly scheduled meeting:
  - 1. The illness or injury of the commissioner or a family member;
  - 2. The death of a family member;
  - 3. An employment-related commitment;
  - 4. A commitment for city business; or
  - 5. Other good cause approved by the commission.
- C. Whenever possible, absences should be noticed to the commission chair prior to the meeting for purposes of securing a quorum at the meeting.
- D. A commissioner may participate in a commission meeting by teleconference.

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.12 – COLLECTION OF FEES AND CHARGES

**Chapter 11.12 - COLLECTION OF FEES AND CHARGES**

*Sections:*

- 11.12.010 - Duty of vessel owners to pay charges.
- 11.12.020 - Fees for use of ~~port and harbor~~ Port of Cordova 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~~ Port of Cordova facility or service shall pay the fees thereon established by resolution of the city council.

**11.12.020 - Fees for use of ~~port and harbor~~ Port of Cordova 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 ~~e~~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 harbormaster due to death of the owner or accidental loss of vessel by sinking, fire or theft.
- 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 fee.
- 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 ~~e~~City billing notice. Rates, fees and charges that are not paid when due shall be considered delinquent.

**11.12.030 - Delinquent accounts.**

Delinquent accounts shall be subject to collection procedures as followed by the ~~e~~City and as allowed by federal and state laws. Further, a penalty of ~~five dollars thirty-~~ one dollars (\$31.00) 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.

**11.12.040 - Lien created.**

- A. In addition to any other remedy provided for herein or at law, all mooring, grid and other miscellaneous ~~harbor~~ Port of Cordova fees shall constitute a lien against the vessel, its tackle, gear, appurtenances and other similar property of the owner or operator, under federal and state law. ~~the provisions of AS 34.35.175 and AS 34.35.220.~~



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- B. Fees and charges delinquent ninety days or longer may be foreclosed on by impounding and selling the vessel against which the lien has vested under federal law and the provisions of Chapter 11.32.

**11.12.050 - Other remedies.**

All liens created shall not be exclusive remedies. A proceeding to foreclose any lien or suit thereon by the eCity 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.

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.16 – MOORAGE AND HARBOR PORT OF CORDOVA USE PRIVILEGES

**Chapter 11.16 - MOORAGE AND HARBOR PORT OF CORDOVA 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.
- 11.16.065 – Houseboats.
- 11.16.070 - Safe condition of vessel.
- 11.16.080 - Accident reports.
- 11.16.085 - Responsibility for property damage.
- 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~~ Port of Cordova 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 harbormaster 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. Every owner, operator or agent of any vessel using the facilities of the Port of Cordova shall execute a moorage agreement providing for payment of moorage fees and other charges; and shall provide proof of insurance of the type and in the amounts specified in the moorage agreement.
- CB. 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.

**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~~.

**11.16.030 - Utilization of mooring facilities.**

The harbormaster shall classify all mooring spaces in the Port of Cordova facilities as either transient mooring or reserved mooring.

**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 or operator shall have any exclusive right to transient mooring space. Should any vessel

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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-vessel.

**11.16.050 - Reserved mooring spaces.**

- A. Every vessel owner desiring reserved mooring space shall apply therefore to the harbormaster and enter into a moorage agreement provided by the City.
- B. The harbormaster shall lease such space, if available, on an annual basis.
- C. The harbormaster shall assign or re-assign such reserved moorage so as to achieve the most efficient use of ~~harbor~~ Port of Cordova space.
- ~~BD.~~ The harbormaster has full authority and responsibility for making reserved mooring assignments or temporary arrangements.
- E. 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.~~
- ~~CF.~~ 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.
- ~~DG.~~ 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.~~
- EH. No property rights are created by this section or this title. The holder shall have only a license to use the space reserved to him or her as provided in this title.
- FI. Both the owner and the operator of a vessel which moors in a reserved mooring space without the written permission of the harbormaster or executing the required moorage agreement shall be guilty of a misdemeanor and the vessel shall be deemed to trespass.

**11.16.060 - Denial of facilities, equipment or services.**

- A. The harbormaster may, at his or her discretion, refuse the use of any Port of Cordova port or harbor facilities to a vessel ~~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~~ any property or facility. ~~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:~~

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### Chapter 11.16 – MOORAGE AND HARBOR PORT OF CORDOVA USE PRIVILEGES

- 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.

#### **11.16.065 - Houseboats.**

Houseboats must meet the following requirements to qualify for moorage within the Port of Cordova:

- A. 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.
- B. Maximum length allowed is 40 feet
- C. Maximum beam allowed for one slip is 16 feet. Houseboats with beams over 16 feet, must reserve and pay for two slips.
- E. Maximum height allowed from waterline to roof peak must not exceed two-thirds of vessel's beam measurement.

#### **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 motor power to permit the vessel to be maneuvered and controlled safely while transiting, entering or leaving the ~~small boat harbor~~Port of Cordova 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 waterways of the ~~small boat harbor~~Port of Cordova.
- B. Whenever the harbormaster has probable cause to believe that a vessel is not qualified under the conditions of this section, he or she may require, upon seventy-two 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 Port of Cordova ~~small boat harbor~~ shall remain qualified so long as it remains in the ~~small boat harbor~~ Port of Cordova. 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 is illegally moored and must be removed from the Port of Cordova-small boat harbor within seven calendar days~~one~~

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~~week.~~ Any such vessel remaining after the time specified in the notice shall be subject to impoundment or removal as a nuisance under chapters 11.28 and 11.32.

**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 or she 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. A separate violation of this section occurs each day a violation of this section continues.

**11.16.085-Responsibility for property damage.**

Those damaging City docks, floats, ramps or other City property shall be responsible for the cost of repairs. Those damaging City property shall be billed for repairs to damaged property at cost, including overhead.

**11.16.090 - Fire hazards prohibited.**

- A. No person may leave a fire or flame unattended aboard a vessel in the Port of Cordova ~~Small Boat Harbor~~.
- B. No person may store, deposit or leave on any float, dock or other ~~harbor~~Port of Cordova 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~~ Port of Cordova 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~~Port of Cordova, except by permit from the fire chief.

**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~~ Port of Cordova, and the cost of testing shall be borne by the vessel or its operator.

**11.16.110 - Operation of commercial businesses.**

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Chapter 11.16 – MOORAGE AND ~~HARBOR~~ PORT OF CORDOVA USE PRIVILEGES

- 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~~ Port of Cordova unless specifically authorized-recommend by resolution of the Hharbor Ccommission to the planning and zoning commission. The resolution will then be reviewed and approved or denied by the planning and zoning commission.
- B. Notwithstanding ~~paragraph Section 11.16.110(A)~~A of this section, any commercial business operating in a mooring space in the ~~small boat harbor~~ Port of Cordova 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 Ccity Mmanager 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.

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.20 – UNLAWFUL ACTS

**Chapter 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~~ Recreation water activity.
- ~~11.20.130 - Parking in the lanes.~~
- ~~11.20.140~~ 11.20.130 - Unauthorized blocking of stored vessels.

**11.20.010 - Animals.**

No person shall permit any ~~dog or~~ animal to enter the harbor Port of Cordova 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 Port of Cordova facility.

**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.

**11.20.030 - Mooring restricted.**

Except in case of extreme emergency, no vessel may anchor within the confines of the harbor Port of Cordova 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 ~~harbor master~~ harbormaster or the police department of ~~public safety~~.

**11.20.040 - Obstruction of floats.**

No person shall deposit, place or leave any cargo, merchandise, supplies, freight, articles or ~~thing~~ item upon any float, ramp, wharf, decline, walk or other public place in the harbor ~~facilities~~ Port of Cordova, 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.

**11.20.050 - Unauthorized bumpers.**

No person may utilize in the ~~small boat harbor~~ Port of Cordova 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

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Chapter 11.20 – UNLAWFUL ACTS

moorage space may install standardized pre-molded rubber or vinyl bumpers of commercial manufacture as approved by the harbormaster.

**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 Port of Cordova.

**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 Port of Cordova 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.

**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 Port of Cordova or unreasonably endangers the users of the waters of the harbor Port of Cordova is prohibited.

**11.20.090 - Excessive wake.**

The speed of any boat, vessel or aircraft within the Port of Cordova or Small Boat Harbor shall ~~not exceed three knots and shall not create no a~~ wake, wash or wave action which will damage, endanger or cause undue distress to any harbor Port of Cordova facility, other vessel or occupant thereof.

**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 Port of Cordova 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.

**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~~ Port of Cordova ~~unless authorized under state or federal law or this code. 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.~~

**11.20.120 - ~~Water contact sports prohibited~~ Recreational water activity.**

- A. It is unlawful for any person to engage within the small boat harbor Port of Cordova in any recreational activity in which the body of the person comes into physical contact with water,



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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~~ Port of Cordova in the activity of diving if the purposes for which the dive is being conducted are related:

- 1.~~(i)~~ to the inspection, maintenance or repair of any vessel moored within the small boat harbor ~~Port of Cordova~~, or of any equipment attached thereto; or
- 2.~~(ii)~~ to the inspection, maintenance, repair, construction or improvement of port and harbor Port of Cordova 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.

**~~11.20.130 – Parking in the lanes.~~**

~~Parking unattended vehicles in fire lanes or approach tressles of the small boat harbor shall be a violation of this section. The penalty for violation of this section is seventy-five dollars.~~

**~~11.20.140~~ 11.20.130 - 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 Port of Cordova must be approved by the harbormaster.

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.24 - POLLUTION CONTROL

**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 Port of Cordova small boat harbor.

**11.24.020 - Petroleum pollution prevention devices required.**

All vessels moored in the small boat harbor Port of Cordova shall be required to have aboard them at all times absorbent materials designed to soak up petroleum products, ~~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.~~

**11.24.030 - Petroleum spill reporting required.**

Any person having knowledge of a petroleum spill within the small boat harbor Port of Cordova shall immediately report such spill to the harbormaster or his designee, US Coast Guard or to the department of public safety Police Department.

**~~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 may make request 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 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~~

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.24 - POLLUTION CONTROL

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.

This written permission is being given by me to the above named Harbor Master or his designee voluntarily and without threats or promises of any kind.

|         |        |
|---------|--------|
| _____   | _____  |
|         | Signed |
| _____   | _____  |
|         | Date   |
| _____”  |        |
| Witness |        |

**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 |
| _____” |               |

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.24 - POLLUTION CONTROL

|         |  |
|---------|--|
| Witness |  |
|---------|--|

**~~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.~~

**~~11.24.070 - Violation Penalties.~~**

- ~~A. Failure to obey or comply with any provision of this chapter or any rule, order or regulation issued thereunder is a violation.~~
- ~~B. The minimum penalty upon conviction for a violation under this subsection is fifty dollars; provided, however, that the penalty for a second or other subsequent violations shall be no less than fifty dollars nor no more than three hundred dollars for each such violation.~~

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.28 – NUISANCES DECLARED-REMOVAL

**Chapter 11.28 - NUISANCES DECLARED-REMOVAL**

*Sections:*

- 11.28.010 - ~~Derelicts~~Nuisances declared.
- 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~~ 11.28.050 - Floating objects.
- ~~11.28.070~~ 11.28.060 - No custody of ~~derelicts~~ nuisances.

**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.~~

**11.28.010 - Nuisances declared.**

- A. For the purposes of this title and in the interest of the greatest use of the facilities of the Port of Cordova and the waterways, a vessel is a nuisance if:
1. The vessel is in violation of the parking, mooring or traffic regulations of the Port of Cordova;
  2. Any rent, fee or charge due to the City for the vessel has not been paid within ninety (90) days of the rent, fee or charge due date;
  3. The vessel is not properly identified by name and/or number and the owner, operator or agent is not on board;
  4. The vessel causes an obstruction to navigation;
  5. The vessel is unfit, unseaworthy or maintained in such a manner as to make it liable to sink for lack of being pumped or other maintenance;
  6. The vessel is unqualified under the provisions of Section 11.16.070;
  7. The vessel constitutes a fire hazard; or
  8. The vessel is sunken or is in imminent danger of sinking.
- B. A vessel declared to be a nuisance is subject to abatement and removal from the Port of Cordova or other waterways 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.

**11.28.020 - Other nuisances.**

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.28 – NUISANCES DECLARED-REMOVAL

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 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~~ Port of Cordova or the waterways ~~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 on any float or dock as aforesaid shall remove the same nuisance and upon ~~his~~ the failure to do so within twenty-four hours of ~~tagging of the nuisance~~ being tagged 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 therefor from prosecution under this chapter.

**11.28.030 - Abatement or disposal.**

- A. Nuisances described under this chapter constituting a clear and present danger to the public health, safety or general welfare may be summarily abated and are not subject to the notice requirements of Section 11.32.030 or the pre-impoundment hearing requirements of Section 11.32.040. Nuisances constituting a clear and present danger to the public health, safety or general welfare are subject to the post-impoundment hearing requirements of Section 11.32.045. ~~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 Section 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.~~
- B. Vessels declared nuisances that do not constitute a clear and present danger to the public health, safety or general welfare may be removed, impounded and disposed of as provided in Section 11.32.
- C. 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. The City holds no liability to the owner of the nuisance for the disposition of the nuisance.

**11.28.040 - Abandoned property.**

Any vessel or object in the ~~boat harbor~~ Port of Cordova or in any of the ~~municipal waters~~ waterway ~~which~~ that is abandoned may be impounded, sold or otherwise disposed of as provided in this title. ~~herein. Failure of any vessel owner, master, operator or~~

Title 11 - PORT AND HARBOR FACILITIES  
Chapter 11.28 – NUISANCES DECLARED-REMOVAL

~~managing agent to register, pay moorage fees or service fees provided by this title shall be presumed to constitute an abandonment. A vessel or object is considered abandoned if a vessel owner, master, operator or managing agent has failed to register or pay moorage or service fees for the vessel or object as is required by this title.~~

**~~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.~~

**~~11.28.060~~ 11.28.050 - Floating objects.**

All vessels, watercraft, logs, piling, building material, scows, houseboats or any other article of value found adrift in the ~~municipal waters~~ waterways 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 ~~e~~City of any expenses incurred by the ~~e~~City, and in case of a failure to reclaim may be sold or disposed of as abandoned property.

**~~11.28.070~~ 11.28.060 - No custody of derelicts nuisances.**

The Cordova Small Boat Harbor and the Port of Cordova shall not accept ownership or custody of sunken or derelict vessels or any nuisance as declared under Section 11.28.010 unless expressly accepted by the harbormaster in writing.

Title 11 - PORT AND HARBOR FACILITIES  
11.32 - IMPOUNDED VESSEL-DISPOSITION PROCEDURE

**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 pre-impoundment hearing.
- 11.32.045 - Right to post-impoundment 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 impound a vessel that is in violation of this title by immobilizing it, removing it or having it towed from the waterway and placed in City or commercial storage with all expenses and risks of haul-out and storage to be borne by the vessel owner.

**11.32.020 - Storage charge.**

~~The owner, operator or agent or person entitled to possession~~ operator or agent of any ~~the~~ vessel impounded by the eCity shall be subject to and liable for a storage charge fee set by the city council by resolution, and shall be subject to and liable for all costs incurred by the eCity by reason of the impounding or removal.

**11.32.030 - Notice to owner.**

Except as provided in Section 11.32.045, aAt least ten days prior to impounding any vessel, the eCity shall cause to be posted on the vessel, in the harbormaster's office, in the Ccity Hhall and on the bulletin board at the United State Post Office, notice of such the action to be taken by the eCity. A copy of the notice shall be mailed to the owner, operator or agent of the vessel at his or her 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 vessel's location of vessel.

**11.32.040 - Right to pre-impoundment hearing.**



Title 11 - PORT AND HARBOR FACILITIES  
11.32 - IMPOUNDED VESSEL-DISPOSITION PROCEDURE

- A. Except as provided in Section 11.32.045, 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 of a vessel or person entitled to possession of the vessel, operator or agent of the vessel has the right to a pre-impoundment preimpoundment administrative hearing to determine whether there is probable cause to impound the vessel if the owner or person entitled to possession of the vessel such person files a written demand on forms so provided for such a hearing with the city clerk 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 being mailed, whichever occurs first.
- B. A pre-impoundment administrative hearing shall be conducted before a hearing officer designated by the city manager within forty-eight hours of receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and eCity 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 or person entitled to possession of the vessel, 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 or person entitled to possession of the vessel, 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 or person entitled to possession of the vessel, 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.

**11.32.045 – Right to post-impoundment hearing.**

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

Title 11 - PORT AND HARBOR FACILITIES  
11.32 - IMPOUNDED VESSEL-DISPOSITION PROCEDURE

- 11.28.030(A) or the pre-impoundment hearing procedures under Section 11.32.040 were not followed.
- B. When a vessel poses clear and present danger to the public health, safety or general welfare notice shall be personally delivered or mailed to the owner of the vessel, if the name and location of the owner is known, within twenty-four hours after the vessel's impoundment, removal or abatement.
- C. The owner of the vessel or person entitled to possession of the vessel has a right to a post-impoundment hearing if that person submits a written demand for a post-impoundment hearing to the city clerk within fifteen days after the City mailed the impoundment notice. The post-impoundment hearing shall be held within forty-eight hours after a written demand is timely submitted. 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 directed the impounding and storage of the vessel. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.
- D. A post-impoundment hearing officer shall determine whether there was probable cause to impound the vessel. If the hearing officer determines that there was not probable cause to impound the vessel, the hearing office shall require the release of the vessel to the owner without payment of the towing, storage or other accrued storage, impoundment, and abatement fees or the hearing officer will entitle the owner to a refund or reimbursement if the owner already paid the fees. If the hearing officer determines that there was probable cause for the impoundment of the vessel, the harbormaster may proceed to dispose of the vessel as provided in this Chapter.
- E. Failure of the owner or person entitled to possession of the vessel, ~~operator or agent~~ to request or attend a post-impoundment hearing shall be deemed a waiver of the right to such hearing.

**11.32.050 - Notice of sale.**

Any vessel impounded shall be held by the eCity 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, including the name and/or register 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 eCity 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 eCity charges against the vessel boat.

**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~~ impoundment fee and storage charges ~~morage and service fees accrued,~~ and the balance, if any, shall be held in trust by the eCity 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~~ Port of Cordova ~~enterprise fund.~~ Upon the sales being ~~made~~ executed, the eCity shall make and deliver its a bill of sale, without warranty, conveying the vessel to the buyer.

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11.32 - IMPOUNDED VESSEL-DISPOSITION PROCEDURE

**11.32.070 - Other disposition.**

If at the public sale there are no responsive bidders for the vessel or the harbormaster determines that the value of the vessel does not exceed the costs of towing, storage, sale, and other Port of Cordova charges, the harbormaster ~~commission shall~~ may use alternative means for disposition of the vessel ~~to the city council~~. The disposition is to be made without liability of the eCity, its employees or agents to the owner, operator or lienholder of the vessel.


Section 2. This ordinance shall be effective thirty (30) days after its passage and publication. This ordinance shall be enacted in accordance with Section 2.13 of the Charter of the City of Cordova, Alaska, and published in the Cordova Times, a newspaper of general circulation in the City, within ten (10) days after its passage.

1st reading: June 5, 2013

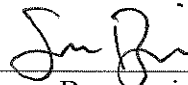
2nd reading and public hearing: June 19, 2013

**PASSED AND APPROVED THIS 19<sup>th</sup> DAY OF JUNE, 2013**



  
\_\_\_\_\_  
James Kacsh, Mayor

Attest:

  
\_\_\_\_\_  
Susan Bourgeois, City Clerk