



Port of Newport

FACILITIES CODE

Ordinance 1-2013

Port of Newport Facilities Code rev. 2023.09.26

ORDINANCE NO. 1-2013

An ordinance adopting the Port Facilities Code and repealing Ordinances Nos. 1 -1991, 2-1993, and other Ordinance contrary to the purposes of this ordinance and the Port Facilities Code.

GENERAL PROVISIONS

TITLE: The title of the Ordinance shall be "Port Facilities Code."

PURPOSE: The purpose of this Ordinance is to adopt a new Port Facilities Code which shall replace the existing rules contained in Ordinances 1-1991 and 2-1993.

AMENDMENTS: The Port Facilities Code may be amended from time to time by resolution of the Board. No ordinance shall be necessary to amend the Port Facilities Code.

By this ordinance the Port of Newport adopts the Port Facilities Code and repeals the existing rules and regulations contained in Ordinances 1-1991 and 2-1993.

This ordinance is adopted on May 28, 2013, by the Board of Commissioners of the Port of Newport.



President

ATTEST:


Secretary

PORT OF NEWPORT FACILITIES CODE

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Chapter 1. General Provisions

1.1 Title. This Code and any amendments hereto shall be called, collectively, the Port of Newport Facilities Code.

1.2 Definitions. As used in this Code, the following terms are defined as follows:

- (a) Active Fishing Vessel. A vessel which is engaged in a bona fide commercial fishing operation under one or more valid licenses, which may include, but are not limited to, a current or previous season vessel fishing license, current season fish tickets, landing permits, or other proof to establish fishing activity.
- (b) Buying Station. A location other than the license premises of a wholesale fish dealer or food fish canner at which such wholesale fish dealer or food fish canner purchases or receives food fish or shellfish from commercial fishers.
- (c) Commercial Marina. The mooring facilities of the Port of Newport, including, but not limited to, Port docks 1, 2, 5, 7, docking facilities at Newport International Terminal when used by vessels not involved in maritime shipping, the hoist dock, parking lots, and storage facilities.
- (d) Commercial Vessel. Any vessel, regardless of size or occupation, that is engaged in marine commerce.
- (e) Draft. The depth of water a vessel draws when fully loaded.
- (f) Emergency. A state of imminent danger to life or property or navigation or the environment in which time is of the essence.
- (g) Fee Schedule. Moorage and other appropriate rates, fees and charges as determined from time to time by resolution of the Board of Commissioners of the Port.
- (h) Gear. All manner of fishing accessories, electronics, netting, and other items used or intended to be used for marine activity or such items necessary or convenient for the use of the vessel.
- (i) Executive Director. The person duly appointed as such by the Commission of the Port of Newport.
- (j) Harbor Area. All land and water areas under the ownership, lease and/or jurisdiction of the Port.
- (k) Harbor Master. The person appointed by the Executive Director or Port Commission to hold that position and any Assistant, Port security officer or other employee authorized or designated by the Executive Director or Harbor Master to enforce the provisions of this Code.

- (l) Hazardous Vessel. A vessel which is determined by the Harbor Master to be unseaworthy or in a state of disability which if unduly prolonged could endanger the marine environment or life or property or become a hazard to navigation.
- (m) Inactive Fishing Vessel. A fishing vessel which cannot meet the active fishing vessel requirements as set forth in §1.2(a) above.
- (n) Industrial Waste. Any liquid, gaseous or solid waste substances or combination thereof resulting from any process of industry, manufacturing, trade, agricultural or agricultural operation or business, or from the development or recovery of any natural resources, which may cause or might reasonably be expected to cause pollution of the harbor properties or the waters controlled by the Port of Newport.
- (o) Litter. Any and all types of debris and substances, whether liquid or solid or a combination thereof, including but not limited to garbage, refuse, rubbish, glass, cans, bottles, paper and paper products, wrappings, decayed wood, sawdust, shavings, bark, cement, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, dead animals or fish carcasses or parts thereof, manure, human or animal wastes, putrid, decaying or deleterious substances or matter, petroleum wastes, or any machinery, appliances or automobiles or parts thereof, or any other substances which may render the harbor properties or waters controlled by the Port unsightly, noxious, or otherwise unwholesome or to the detriment of the public health and welfare.
- (p) Liveaboard Vessel. Any vessel with occupants on board more than seven consecutive nights in any thirty-day period.
- (q) Marine Commerce. Trade, service or industry which is related to or dependent upon the sea or products of the sea.
- (r) Moorage. Any place where a vessel lies when at anchor or is made fast to a dock or is laid alongside another vessel made fast to a dock, and shall include side and multi-side ties.
- (s) Moorage Facilities. Those facilities of the Port of Newport where vessels may moor to wharves, docks, pilings, and finger piers in assigned or designated spaces. Fuel docks and designated public piers at Newport Marina at South Beach and elsewhere within the Port are not designated moorage facilities.
- (t) Moorage License Agreement (MLA). A written agreement between the boat Owner or Operator and the Port of Newport for the assignment of, use of, and/or payment for moorage.
- (u) Newport International Terminal. The shipping terminal situated on Port properties which handles import and export cargoes.
- (v) Open Flame Device. Any stove, furnace, lamp, heater, fireplace or other similar device operating upon or burning coal, peat, kerosene, fuel oil, diesel oil, gas, gasoline, charcoal, wood or similar fuel, any candle, fuel burning lamp, open flame lantern, or any

similar device which provides light or heat by means of a covered or visible flame or hot coals or embers.

- (w) Operator. Any person who claims, expressly or otherwise, lawful care, custody, or control of a vessel by virtue of legal title, equitable interest, lease or charter therein which entitles him to possession or has authority over the operation of the vessel pursuant to authority of the legal or equitable owner or charterer.
- (x) Overall Length. The distance along the centerline from the foremost part of the bow (including the bowsprit) to the aftmost part of the stern, including any outboard motors or brackets, regardless of keel length and regardless of registered or documented length.
- (y) Overall Width. The distance between the outermost part of each side of the vessel, regardless of registered or documented width.
- (z) Owner. The person or entity that owns the vessel as determined by applicable State or Federal law.
- (aa) Park. To place or leave any vehicle, trailer, or vessel on land within the boundaries of the Port of Newport.
- (bb) Person. An individual, partnership, corporation, association or other form of legal entity.
- (cc) Port. The Port of Newport.
- (dd) Port Commission. The governing body of the Port of Newport.
- (ee) Port Properties. The Commercial Fishing Docks, Newport Marina at South Beach, Newport International Terminal, and all other lands, properties and facilities owned or operated by the Port of Newport.
- (ff) Recreational Marina. The Newport Marina at South Beach and all of its facilities, including the launch ramp, parking lots, storage facilities, and docks.
- (gg) Resident Vessel. Any vessel holding an annual or semi-annual Moorage License Agreement with the Port of Newport.
- (hh) Retail Sales: Sales of goods that are made directly to the consumer. For the purposes of this definition, a consumer is a person who purchases goods for personal use, and services do not apply.
- (ii) Retail Sales Business: A business whose primary purpose is to conduct retail sales.
- (jj) RV Park. The designated parking areas for recreational vehicles at the Newport Marina at South Beach.
- (kk) Seafood Product. Salmon, bottom fish and fish of all types and species; clams, shrimp, crab and shellfish of all types and species; and all other seafood, or seafood products, whether intended for animal or human consumption.

- (ll) Sewage. Water, chemical, or other liquid containing human or animal wastes from vessels, motor vehicles, trailers, residences, buildings, industrial or commercial establishments or other like places or activities.
- (mm) Sport Vessel. Any vessel, regardless of size, not engaged in marine commerce and not possessing a commercial fishing, charter or passenger transportation license.
- (nn) Staging. Use of Port facilities or properties as a station for working on or changing gear belonging to a fishing vessel.
- (oo) Transient Moorage. Short-term berthage for one month or less, for use of moorage facilities whereby the vessel is granted authority by the Port to moor.
- (pp) Transient Vessel or Guest Vessel/Boat. Any vessel using a Port moorage facility and which belongs to an owner who does not have a semi-annual or annual Moorage License Agreement for that vessel with the Port. Transient vessels or guest boats include, but are not limited to: vessels seeking a harbor of refuge, day(s) use or overnight(s) use of a moorage facility on a space as available basis.
- (qq) Underway. The condition of a vessel, not at anchor, without moorings, and not made fast to the shore or ground.
- (rr) Vehicle. Any self-propelled or powered device designed for transportation of persons and property. For the purpose of this Code, the word "vehicle" does not include boats, boat trailers, or travel trailers.
- (ss) Vessel. Every description of watercraft or other floating device, including seaplanes, used or capable of being used in or on the water.
- (tt) Wholesale: Sales of goods that are made to retailers, or to industrial, commercial, institutional, or other professional business users, or to other wholesalers and the like.

1.3 Purpose and Scope. The purpose of these rules and regulations is to secure the most effective control and management of the harbor properties and facilities of the Port of Newport. Adherence to these rules and regulations is considered to be a condition of use and access to Port facilities.

1.4 Interpretation. If any section or part of this Code is found to be inconsistent with any laws of the State of Oregon or of the United States, or any rule, regulation or standard established pursuant thereto, such section, or part thereof shall be interpreted in the manner most consistent with its original intent that is not inconsistent with any laws of the State of Oregon or the United States or any rules, regulations or standards established pursuant thereto. Nothing contained in this Code shall be construed as a limitation of any rights, privileges, or remedies previously existing under any applicable laws or as a limitation of the powers of the Port Commission or management.

1.5 Severability. Should any portion or the application thereof to any person or property be found invalid for any reason, the validity of the remainder of these rules and regulations or the

application of such remainder to other persons or property shall not be affected.**Application.** These rules and regulations are applicable to all properties and facilities of the Port of Newport and to all waters subject to its jurisdiction. All vessels and persons entering or using the facilities shall be subject to the policies herein defined.

1.6 Availability of Code. This Code shall be available for free on the Port’s website and anyone may inspect a copy of this Code at the Port of Newport or Newport Marina offices. The Port may make copies of this Code available for purchase by the public as well.

1.7 Construction. The use of any gender shall include all genders; the singular shall include the plural and the plural shall include the singular; and the provisions of this Code shall apply to individuals, partnerships, associations, and corporations alike.

1.8 Executive Director. The Executive Director is to administer the functions of all Port facilities. Whenever by the provisions of this Code, a power is granted to the Executive Director or a duty is imposed upon him, the power may be exercised or duly performed by an assistant of the Executive Director, unless it is expressly otherwise provided.

1.9 Registration and Moorage License. The Operator of any vessel which is not a resident vessel must, within 24 hours of commencement of use of Port moorage, register said vessel with the Port, enter into a Moorage License Agreement and, if applicable, receive from the Port an assigned moorage space.

(a) Registration.

- (1) If arrival time is after regular business hours or otherwise when Port personnel or security are not on duty, registration may be made by completing and depositing the registration form available at the drop-in boxes at the Port Administrative and Newport Marina offices.
- (2) Payment for the initial term of moorage and any required deposit is required at the time of registration. The vessel, its Owner(s), and Operator(s), if any, are each jointly and severally liable for all moorage charges.
- (3) When registering, the Operator of a vessel shall provide to the Port:
 - A) The name, number, type, dimension (including Overall Length and Overall Width), description and use of the vessel;
 - B) Proof of ownership and current and valid documentation and/or registration information;
 - C) Proof of insurance coverage that complies with Section 1.15 below;
 - D) Current billing address;
 - E) The Operator’s name, residence and mailing address, email address, and telephone number;

- F) Operator's valid driver license number; and
 - G) Included as part of registration, the contact person(s), other than the Owner or Operator, who will be available to address any needs of the vessel while in Port waters, must be updated from time to time by the owner/operator if or when conditions of vessel responsibility change.
- (4) If the Operator is not the owner of the vessel, owner authorization for moorage and other charges shall be made available upon request of the Port.
 - (5) At the time of registration, the Operator of the vessel shall provide written notice to the Port of any structural issues which could result in damage if the vessel is towed or otherwise relocated by the Harbor Master. This notice must be updated from time to time by the owner/operator when condition of vessel changes.
 - (6) Registration shall constitute permission for the Port to move or dry dock the vessel for such purposes as permitted under this Code.
 - (7) Failure to Register. Failure to register is a Class B Violation of this Code.
- (b) Moorage License. At the time of registration, the Operator of a vessel shall enter into a Moorage License Agreement (MLA) with the Port in the form and manner provided by the Port. A vessel is not properly registered with the Port until the execution of the MLA.
- (1) The Port may issue or renew a moorage license for up to, but not exceeding one (1) year. Upon expiration of the period stated therein, the Moorage License Agreement and all rights of the licensee thereunder shall, subject to §1.10(b)(6) below, automatically terminate.
 - (2) Prior arrangements must be made with the Port on any payment plan other than payment in full. If moorage is not prepaid, the Owner or Operator of the vessel may request, by writing to the Executive Director, permission to make installment payments, which the Executive Director may grant upon such terms and conditions the Executive Director, in their discretion, deems appropriate. Failure to meet the conditions of payment or payments as set forth in an approved installment plan is a Class D Violation of this Code and may result in a fine and/or immediate removal or seizure and sale of the vessel.
 - (3) The Moorage License Agreement and moorage license emanating therefrom shall allow the use of the moorage facility for moorage purposes only and do not operate to grant further rights, privileges or uses. Additional uses are not permitted except as expressly permitted in writing by the Port.
 - (4) Where registration is completed by an Operator of a vessel who is not its Owner, the Port may, at its option, require the vessel's Owner enter an MLA with the Port within seven days of such request. Failure to comply with a request under this

subsection shall entitle the Port, at its sole option, to terminate the Moorage License.

- (5) Holdover Moorage. If a Moorage License Agreement is not renewed, moorage shall be due at the applicable transient rate and is payable in advance. No Moorage License Agreement may be renewed unless the conditions of original issuance are met nor may a Moorage License Agreement be issued or renewed unless all fees and charges due and payable are paid.
 - (6) In the event the Moorage License Agreement expires or is terminated, the obligations of the Licensee thereunder regarding financial responsibility, including insurance obligations, as well as obligations regarding the condition of the vessel, its safety, care and seaworthiness, shall continue until the vessel is removed from Port Property and waters.
- (c) Transferability of Moorage Licenses.
- (1) Moorage License Agreements are not transferable. A Moorage License Agreement is personal to the applicant and cannot be assigned, sold, transferred or involuntarily seized, except a vessel owner may transfer title to a corporation or other entity in which the vessel owner owns and maintains a controlling interest. Such entity shall also enter an MLA with the Port and shall be, with the original licensee, jointly and severally liable for all amounts due under the initial license.
 - (2) Moorage License Agreements may only be issued to the Operator or Owner of a vessel and shall be valid only for a specific vessel or a replacement vessel of the same length in a numbered or Port-designated moorage, if any. The moorage space, if any, designated by the Moorage License Agreement may not be sublet by the licensee.
 - (3) Upon any transfer of title to the vessel, the selling vessel owner shall notify the Port and pay any moorage or other charges due at that time. The Moorage License Agreement shall automatically terminate upon sale of the vessel unless it has been transferred to a vessel of equal length as provided in §1.10(c)(2) above.
- (d) Nothing herein shall restrict the emergency and/or temporary utilization of any vacant space within the Port facilities by the Port. However, such utilization shall be managed to provide for minimum impact upon any permanently assigned spaces.
- (e) Assigned moorage spaces may be reassigned at the option of the Port if the orderly administration of the moorage facility so requires. If the licensee does not consent to reassignment, the Moorage License Agreement shall automatically terminate, the licensee shall remove the vessel from the assigned moorage space, and shall receive a refund of moorage fees as set forth in §1.10(h) below, less any payments due to the Port.

- (f) A vessel which moors at the Port, the owner of which is indebted to the Port for previous moorage, may be impounded immediately.
- (g) Licensees may apply for reassignment of any assigned moorage spaces, however, reassignment is not a right or privilege of the Moorage License Agreement.
- (h) Cancellation of Long-Term Moorage. A semiannual or annual Moorage License Agreement may be cancelled by a vessel owner/operator upon thirty (30) days written notice to the Port. Refunds are not prorated. The licensee will be entitled to a refund calculated by subtracting from the then effective charge for the term of the License being cancelled less any amounts remaining unpaid thereunder, the scheduled charge for the actual duration of moorage.
- (i) By registration or making fast to Port property, the vessel Operator accepts the condition of the Port facilities as is, and by continuing to moor at Port facilities, vessel owner/operator accepts the Port facilities as their conditions change.

1.10 Port Charges. A vessel, its Operator and, if different, its Owner, as well as the owner and the possessor of personal property using moorage facilities or using other services, goods or materials from the Port shall be liable for all charges for moorage and storage at the rates provided in the then-current fee schedule as provided in §7.8 below.

1.11 Delinquent Transient Moorage. If the prepaid Moorage License Agreement for a transient vessel expires and the transient vessel remains at Port properties, the transient vessel owner/operator must renew the Moorage License Agreement and prepay further transient moorage fees within twenty-four hours of the date or time the prior transient Moorage License Agreement expires. Transient vessels which return to the Port after expiration of a prior Moorage License Agreement shall re-register and enter a new Moorage License Agreement with the Port, prepay current transient moorage, and pay any outstanding transient moorage.

1.12 Failure to Renew. Should any transient vessel Operator fail to renew the transient Moorage License Agreement or register and obtain a new Agreement within the time required, the vessel is abandoned.

1.13 Terms of Payment. Moorage charges apply against vessels, their owners and operators and are payable in advance unless a payment plan has been agreed upon in writing with the Port. Invoices covering charges other than moorage charges, as issued by the Port, are due and payable upon presentation.

1.15 Insurance.¹ All vessels mooring at the Port must carry liability insurance that, at a minimum, meets the following criteria:

(a) Commercial Vessels

- (1) Insurance Certificate Limits as set forth in the most recent Resolution Adopting Rates, Fees & Charges.

¹ Port of Newport Resolution 2017-12 Amending the PON Facilities Code to Change Sections Related to Insurance Coverage for Vessels

(2) Resident vessels shall have the Port of Newport named as an additional insured with respect to such policies and provide proof thereof within 30 days of registration with the Port.

(3) Transient vessels shall provide proof of adequate coverage upon registration with the Port. Any transient vessel moored for 30 days or more must have the Port of Newport named as an additional insured with respect to such policies.

(b) Recreational Vessels

(1) Insurance Certificate Limits as set forth in the most recent Resolution Adopting Rates, Fees & Charges.

(2) Resident vessels shall have the Port of Newport named as an additional insured with respect to such policies and provide proof thereof within 30 days of registration with the Port.

(3) Transient vessels shall provide proof of adequate coverage upon registration with the Port. Any transient vessel moored for 30 days or more must have the Port of Newport named as an additional insured with respect to such policies.

(c) Changes to limits/coverage may be adopted via rates, fees and charges resolution.

1.16 Application²³ (Port of Newport Board of Commissioners, 2014). Unless otherwise specified, the provisions of this chapter apply at all Port-owned or operated facilities and properties except for those Port-owned upland properties leased to others.

(a) Anyone parking/storing personal property at the Port does so subject to this, the Facilities Code, and at his/her own risk. The Port does not assume responsibility for loss, damage or theft to any property within the Port area. The owner/operator is responsible for any cost incurred in removal of the property. The owner/operator shall maintain automobile liability insurance at all times on any vehicle parked in and around Port facilities.

(b) Hoist Docks Usage (Commercial Marina and International Terminal)

(1) Services are provided on a first come/first served basis.

(2) Priority will be given to fishing vessels removing or resetting gear.

(3) Buyers cannot claim, hold or reserve hoist prior to boat's arrival.

(4) Buyers are limited to use of one hoist at a given time.

(5) Harbormasters or the Director of OPS have the right to override these usage rules at any time.

(c) Regular Hours of Operation

(1) Commercial Marina Operations, Monday through Sunday, 8 am to 5 pm.

(2) International Terminal Operations, Monday through Friday, 8 am to 5 pm.

² Port of Newport Resolution 2018-11 Amending Facilities Code to Add an Exculpatory Item Regarding Personal Property

³ Port of Newport Resolution 2019-03 Amending the Port Of Newport Facilities Code to Add a Definition of Regular Hours by Location and Clarify Hoist Dock Usage

- (3) Recreational Marina/RV Park Operations, Monday through Sunday, 8 am to 5 pm.
- (4) Recreational Marina/RV Park Office, Monday through Sunday, hours vary seasonally.
- (5) Administration Office, Monday through Friday, 8 am to 5 pm.

1.17 Abandoned Vessels

- (a) A vessel and its associated personal property is abandoned if it: is not properly registered with the Port within 24 hours of commencement of use of Port moorage, is declared to be by any other provision of this Code, or otherwise appears to the Port to be abandoned.
- (b) Personal property other than vessels is abandoned if:
 - (1) The property is left on or in Port facilities without identification, evidence of ownership, or notification to the Port of ownership for a period of more than five (5) days; or
 - (2) Personal property marked as belonging to a vessel is left on or in Port facilities in excess of five (5) days after expiration of the MLA for that vessel.
- (c) Sale of Abandoned Vessels or Personal Property. Abandoned vessels and personal property may, at the option of the Port, be secured and sold at public auction as provided in Chapter Seven herein.

2.21 Waste/Litter/Sewage Disposal⁴

No person may throw, place, leave, deposit, or abandon, or cause or permit to be thrown, placed, left, deposited or abandoned, any industrial waste, litter, or sewage on any Port properties or harbor area, except in designated receptacle areas designated by the Port for the disposal of such materials or substances.

- (a) Refuse or waste containers provided by the Port may only be used for wastes, litter or sewage generated on Port properties or from a vessel's voyage.
- (b) Vessel owners and operators are personally liable for any and all costs associated with cleanup outside of designated receptacle areas of wastes, litter or sewage generated on Port properties by their vessel, crew or guests.
- (c) No person shall remove any industrial waste, litter or sewage placed out for collection, resource recovery, or recycling except port staff or the contracted waste collection service. Violators may be trespassed.

2.22 Safekeeping of Vessels.

- (a) Vessels present in the Port must at all times be securely moored, and subject to any exceptions herein, completely seaworthy, fully operational and ready for immediate cruising in local waters.

⁴ Port of Newport Resolution 2017-11 Amending the PON Facilities Code to Add a Violation for Unauthorized Trash Removal

- (b) The vessel, its Operator and Owner shall pay and be liable for any damage or harm to persons or property, as well as any remediation or cleanup costs, including without limitation, salvage, removal and environmental cleanup costs, resulting from a vessel's failure to be securely moored, completely seaworthy, fully operational and ready for immediate cruising in local waters without regard to the fault of the Owner and/or Operator. This liability is to be joint and several.
- (c) A vessel that has capsized, sunk or otherwise become disabled in such a manner as to constitute a hazard to navigation or use of Port facilities is per se unseaworthy.
- (d) Safekeeping Activities. When permitted by this section, the Port or its contractors or agents may engage in any of the following Safekeeping Activities with respect to any vessel in Port waters or on Port property:
 - (1) Board the vessel;
 - (2) Inspect the vessel;
 - (3) Pump and/or dewater the vessel;
 - (4) Replace defective mooring lines or add additional mooring lines;
 - (5) Disconnect the vessel from the Port's electrical system;
 - (6) Remove the vessel from moorage facilities, secure it and place it in storage; and
 - (7) Such other work, maintenance, repair or mitigation activities as may be reasonably necessary under the circumstances then known to the Port personnel making such decisions, in their absolute discretion.
- (e) The Port's right to engage in Safekeeping Activities does not create any obligation or duty on the part of the Port to so act. The safekeeping of a vessel is solely the responsibility of its Operator and Owner, if different.
- (f) The Harbor Master may engage in the above-described Safekeeping Activities when they determine the existence of any of the following conditions with respect to a vessel or the Port:
 - (1) A vessel taking on excessive amounts of water or in need of dewatering with excessive frequency;
 - (2) Fire or open flames on or near any vessel;
 - (3) The vessel is connected to the Port's electrical system in a manner not consistent with §2.10 and §2.11 of this Code;
 - (4) Severe weather or any other conditions or events pose a risk to the vessel, the Port or other vessels or pose a risk of the creation of a hazard to navigation that could be mitigated by engaging in Safekeeping Activities

- (g) The Harbor Master may move or relocate a vessel within the Port for any of the reasons described in §2.3(f) above, as well as for the safe, orderly and efficient operation of the Port.
- (h) Notice. The Port shall, prior to engaging in Safekeeping Activities, provide notice to the Operator of the vessel at least fifteen (15) days prior to engaging in the Safekeeping Activities or removal as follows:
 - (1) By posting a notice on the vessel in a conspicuous place; and
 - (2) By mailing notice of the planned Safekeeping Activities to the Operator at the address on file with the Port;
 - (3) By providing written notice in person to the Operator of the vessel; or
 - (4) By providing notice in any manner to which the Operator has consented in a Moorage License Agreement.
 - (5) The notice shall contain a brief description of the condition or conditions authorizing Safekeeping Activities, the actions required to remedy said condition or conditions, the Safekeeping Activities the Port anticipates will be necessary to remedy the condition or conditions, and a statement that the vessel, its Owner and, if different, Operator are jointly and severally liable for the costs of any Safekeeping Activities, and failure to timely pay for such activities will constitute abandonment of the vessel. The Port is not limited to utilizing only the Safekeeping Activities set forth in the notice.
 - (6) If, in the discretion of the Harbor Master, the condition of the vessel or other condition authorizing Safekeeping Activities presents an emergency, no advance notice need be given, but the Port shall provide notice as soon as practicable after engaging in the Safekeeping Activities. This notice shall describe the condition or conditions leading to the Port's determination that an emergency existed, the condition or conditions leading to Safekeeping Activities, the Safekeeping Activities performed, the charges due therefor, and a statement that the vessel, its Owner and, if different, Operator are jointly and severally liable for the costs of any Safekeeping Activities, and failure to timely pay for such activities will constitute abandonment of the vessel.
- (i) Costs of Removal or Safekeeping Activities. The vessel, its Operator and, if different, Owner shall be jointly and severally liable for the costs of the Safekeeping Activities, based upon the fee schedule then in effect. All expense and risk of loss or damage resulting from the Safekeeping Activities and/or removal shall be borne by the vessel, its Operator and, if different, its Owner.
 - (1) Should the charges under this section go unpaid more than ten (10) days after mailing notice thereof to the Owner and, if different, Operator, the vessel is abandoned.

2.23 *Vessels under repair.* Vessels undergoing repairs need not be completely seaworthy, fully operational and ready for immediate cruising in local waters under the following circumstances:

- (a) The vessel is undergoing short-term repairs of thirty days or less, which repairs are the cause of the vessel being not seaworthy, fully operational or ready for immediate cruising in local waters; or
- (b) Written authorization has been obtained from the Port for repairs rendering the vessel inoperable longer than thirty days and only to the extent that any conditions imposed in such written authorization are fully complied with.

2.24 *Denial of Services.*

- (a) The Port may deny moorage if, in the absolute discretion of the Harbor Master, said moorage would present a hazard to the safety of the harbor or the general public.
- (b) The Port may deny moorage facilities or other services or equipment to any person or vessel delinquent in the payment of any authorized fee or charge.
- (c) The Port may deny services or equipment to any person or vessel if, in the absolute discretion of the Harbor Master, such services or use of such equipment would present a hazard to the safety of the harbor or to the general public.
- (d) An owner/operator of a vessel shall remove the vessel from the harbor area and any Port facilities and may not cause, suffer or permit the vessel to be moored, tied or affixed to any harbor facilities in the Port harbor area after the Harbor Master has notified the owner/operator of the vessel that moorage or mooring facilities are denied.
- (e) Notice of denial of the privilege to commence use of moorage, mooring facilities, services or equipment to a non-registered or registered vessel may be given by the Harbor Master verbally or in writing, and shall be effective immediately.
- (f) Notice relating to a request for services and use of equipment shall be effective immediately.
- (g) Verbal notice or written notice personally delivered to the owner/operator relating to the termination of the privilege to use moorage or mooring facilities shall be effective twenty-four (24) hours after the time of delivery unless a later effective date is specified in writing.
- (h) Written notice of denial of moorage or mooring facilities for a registered vessel may be mailed to the address designated on the registration information or may be posted in a conspicuous place on the vessel. A written notice that is posted or mailed shall be effective at 4:30 p.m. on the fifth day following posting or mailing of such notice.

- (i) Any person who threatens others with physical violence or who disrupts the safety of operations, Port employees, or Port users may be excluded from Port Facilities by the Executive Director's designee.⁵
- (j) A person may appeal the denial of services or access under this section as provided in §7.1 below.

2.25 Custodial Care of Vessels. The Port does not accept vessels for custodial care.

2.26 Vessel Identification. All vessels entering the Port area shall have identification marked as required by law. Documented vessels must display official documentation numbers issued by the Coast Guard and the name of the boat on the hull.

2.27 Mooring/Cross-Tying. Vessels must be securely moored with bow, stern, and spring lines of adequate size. No cross-tying of vessels is allowed, except as expressly authorized by the Harbor Master.

2.28 Fenders/Bumpers. Vessels are required to use fenders. The owner or operator of a vessel with an assigned moorage space may install standardized pre-molded rubber or vinyl bumpers of commercial manufacture as approved by the Harbor Master. Dock-affixed fenders may consist only of materials approved by the Harbor Master and may not include carpeting, rubber tires, fire hose or similar materials.

2.29 Electrical Service

- (a) Electrical facilities erected on the Port docks for the purpose of providing electricity shall not be used for any other purpose, and no person may tie or connect any rope, line or make any attachment to moor any vessel to any electrical stanchion or other electrical facility.
- (b) All electrical cords and wiring shall be properly grounded and carry Underwriter's Laboratory approval for marine related service. No person may make any electrical connection to any electrical outlet of the Port except through the use of Underwriter's Laboratory approved cords and plugs which are in good condition and repair.
- (c) The Operator may connect to electrical service at the moorage location subject to the following:
 - (1) The Port does not guarantee continuity of electric service to any vessel, the characteristics of any service that is provided, or the characteristics of the vessel service circuit breaker.
 - (2) Use of electrical service shall be at vessel Owner and Operator's own risk.

⁵ Port of Newport Ordinance 2022-01 Amending Facilities Code 6/28/2022

- (3) No person may permit or suffer the drawing of more voltage or amperage than posted at the point of connection. The Port may at any time measure the voltage and amperage being drawn.
- (4) The connection of any vessel or electrical device to the Port's electrical system must be in a manner consistent with the National Electrical Code.
- (5) No cords or wires may be placed on the dock or fingers in such a manner to cause or contribute to damage or injury to people or to facilities or property of the Port.
- (6) The vessel operator shall pay to Port all electrical charges based upon a fee schedule adopted by resolution by the Port Commission from time to time and in effect at the time.

2.30 Stray Voltage Prevention.⁶

- (a) The Port may measure the electrical power leads to any vessel connected to the Port's electrical power outlets and disconnect the vessel if it does not meet the following criteria:
 - (1) The A.C. current in the two current-carrying conductors of the 120 volt, single-phase power leads are equal.
 - (2) The A.C. currents in the two current carrying conductors of a 120V/208V-240V single- phase electrical circuit balance.
 - (3) The A.C. currents in the three current-carrying conductors of a 120V/208V-240V three-phase electrical circuit balance with respect to the current draw.
 - (4) No. A.C. electrical current is flowing in the electrical circuit ground wire.
 - (5) No D.C. electrical current is flowing in the ground wire or A.C. conductors.
 - (6) The ground wire is continuously connected on board the vessel to the interface termination as required by the National Electrical Code.
 - (7) The 120 volt A.C. single-phase receptacle socket and plug will be the industry standard, presently the 30 ampere L_30 twist lock set.
 - (8) The power cord shall meet or exceed marine grade three conductor Number 10 wire marine cable for 120 volt A.C. single-phase circuits.
 - (9) Power cords for 120V/208V-240 volt single-phase and 120V/208V-240 volt three- phase currents shall be of conductor size and insulation type to meet or exceed the U.S. Coast Guard requirements for marine applications.
 - (10) Power cord ends and receptacles for higher voltage single phase or three phase current shall be approved by the Port prior to use.

⁶ Port of Newport Resolution 2014-04 Amending Facilities Code 5/22/2014

- (11) No amount of stray voltage is present.
 - (12) No vessel or electrical device may be wired to the Port's electrical system in any manner other than approved electrical cords, cables or appropriate approved conductors with approved cord ends and approved electrical receptacles.
- (b) Any vessel in violation of this section or §2.10 above is hazardous and shall be subject to termination of moorage and removal if Operator fails to correct the violation(s) within thirty (30) days after notification of the violation(s).

2.31 *Fire Extinguishers.* All vessels must carry on board U.S. Coast Guard approved and operable fire extinguishers. Fire hoses and other firefighting equipment are to be used for fire control only.

2.32 *Sewage/Waste Disposal from Vessels.* No person on a vessel equipped with a toilet may use or permit the use of such toilet while using moorage facilities or within the harbor area unless the vessel is equipped with facilities in good operating condition adequate to treat, hold, incinerate or otherwise handle sewage in such a manner that is capable of preventing pollution. For the purposes of this Section, an acceptable water pollution control device is one which has been approved by the U.S. Coast Guard for this purpose.

2.33 *Public Use of Port Properties/Facilities*⁷.

- (a) Closure. The docks and Port properties are closed between dusk and dawn to the public, except to authorized moorage holders, their agents or employees having business to tend to on the vessels. Authorization for public use of Port properties or facilities after dark must be obtained from the Executive Director. Violation of this section is a Class C Violation of this Code.
- (b) Special Uses Permitted. The activities described in this section may not be conducted upon Port properties without a Special Use Permit obtained from the Port. The Commission may, by resolution, establish criteria for and restrictions upon the issuance of permits, and may grant exclusive licenses for the conduct of such activities. This restriction does not apply to the Port's lessees when upon the leased premises. A "Special Use" is defined as any private activity conducted wholly or partly on Port property that requires the use of Port services, such as closure of a portion of Port property or parking, use of Port property, or other Port services (e.g. moorage). A Special Use may include, but is not limited to, parade, festival, exposition, show, sale, event or other similar activity, or any activity to which the user has invited the public to attend or otherwise publically promoted.

2.34 *Compliance with Regulations, Laws, Signs, Safety Standards.*

- (a) Persons or entities utilizing Port facilities or equipment shall obey all Municipal, County, State and Federal rules, regulations and laws.

⁷ Port of Newport Resolution No. 2016-11 Amending the Facilities Code 9/27/2016

- (b) Persons or entities utilizing Port facilities or equipment shall comply with all posted signs as well as any instructions by Port personnel and shall comply with all administrative or operational rules, policies and procedures issued or posted under the authority of the Executive Director or Port Commission.
- (c) Persons or entities utilizing Port facilities or equipment shall conform their conduct to generally accepted safety practices, requirements and standards to insure that the actions or vessel of such persons or entities do not become a hazard to them, other vessels or persons, or Port facilities and Port properties.
- (d) The Port may prevent, restrict, or suspend any activity deemed hazardous by the Executive Director or Harbor Master to that person or other vessels, or persons, on Port facilities and Port properties.

2.35 Consumption/Use of Alcoholic Beverages/Controlled Substances. Consumption of alcoholic beverages or possession of open containers of alcoholic beverages, except on OLCC (Oregon Liquor Control Commission) licensed premises or private vessels, is prohibited. Using or possessing unlawful controlled substances on Port property is prohibited.

2.36 Vessel Movement and Speed/Personal Watercraft. Vessel movement within the moorage area shall comply with all posted speed limits, rules and regulations as determined by the Harbor Master, and shall at no time create a wake. Use of water skis within the moorage area is prohibited. Use of jet skis within the moorage area is prohibited.

2.37 Fueling. No person may fuel or cause to be fueled, a vehicle or watercraft on properties of the Port except at areas designated by the Fire Marshal and approved by the Port for that purpose.

- (a) No person may store or cause to be stored, any fuel for any vehicle or watercraft in or upon any vehicle or watercraft on or upon the Port properties or harbor area except in tanks or containers designed for that purpose, and in areas where such tanks or containers may not come into contact with sparks or excess heat or other conditions which may cause it to ignite.
- (b) Fueling is allowed at Port approved and designated facilities only, and is subject to fees as determined from time to time by the Port Commissioners and in accordance with other applicable agreements.

2.38 Combustibles. Combustible materials shall be stored in such place and manner as to prevent accidental combustion and fire, except that rags and waste materials saturated with combustible fluids must be removed from Port property immediately after use.

- (a) No person may dump, discharge, or pump, or allow to be dumped, discharged, or pumped, any oil, spirits, gasoline, distillate, any petroleum products, or any other flammable materials onto Port properties or into the waters of the Port.
- (b) No person may smoke on the fuel dock or on any other Port facility posted with no-smoking signs.

2.39 Explosives. No person may knowingly transport, carry, convey, store, stow, load or unload, or use on board any vessel within the jurisdiction of the Port of Newport, any explosives or other dangerous articles except in accordance with the regulations of the United States Coast Guard, as set forth in Title 46 of the Code of Federal Regulations, or as authorized by the State Fire Marshal.

- (a) It shall be the duty of the vessel owner and/or its operator to notify the Port of Newport not less than five (5) days prior to the arrival in port of any vessel carrying any such explosives or dangerous articles.
- (b) No explosives or dangerous articles may be handled at any dock, wharf, pier or other place within the harbor not previously approved by each of the following: the Executive Director, Harbor Master, Fire Chief of the City of Newport, and the Commissioners of the Port of Newport. Approval authority by the Executive Director and Harbor Master may not be delegated.

2.40 Interference with Utilities. No person may tap or interfere with any water outlet, water pipe, water connection, telephone equipment, TV cable, electrical outlet or electrical device maintained or operated by the Port.

2.41 Seafood Product Sale or Purchase. No person may set up a retail sales without first obtaining all required licenses and permits and leasing from the Port, on terms provided by the Port, the area at which any retail sales business is to be established.⁸

2.42 Commercial Activity on Port Property. The commercial activities described in this section may not be conducted upon Port Properties without a permit or license obtained from the Port. The Commission may, by resolution, establish criteria for and restrictions upon the issuance of permits, and may grant exclusive licenses for the conduct of such activities. This restriction does not apply to the Port's lessees when upon the leased premises.

- (a) Charter boat operations of any variety⁹;
- (b) The cleaning or processing of any Seafood Product for remuneration when not conducted solely upon a vessel moored under an MLA or other agreement with the Port.

2.43 Fish Processing on Port Property. No person may clean or process fish or shellfish on any walkways, wharves, docks, barges or piers owned, managed or otherwise controlled by the Port, except in locations specifically designated and posted for that purpose by the Executive Director.

2.44 Fishing/Crabbing on Port Property. No person may fish or crab on, about or from the walkways, wharves, docks, barges or piers owned, managed or otherwise controlled by the Port, except in areas specifically designated and posted for that purpose by the Executive Director. No person may fish or crab in designated areas except during the hours of daylight, from one

⁸ Port of Newport Ordinance 2022-02 Amending the Facilities Code 5/23/2023

⁹ Port of Newport Resolution 2015-08 Establishing a Policy for Commercial Charter Boat Activity (appended)

hour before sunrise to one hour after sunset. Crab gear may not be left unattended. Moorage customers may fish from their own boats, solely at their own risk and liability. Any person engaging in such activity in designated areas shall promptly remove all equipment, gear or paraphernalia from said facility during hours of darkness.

- 2.45 *Supervision of Children.*** Children under 12 years of age shall not be allowed on the Port docks unless wearing an appropriate personal flotation device and supervised by a parent or responsible adult.
- 2.46 *Open Flame Devices/Cooking.*** No person having charge of or access to a vessel which is moored at or located upon Port property or facilities may leave such vessel unattended while an open flame device is in operation. No cooking or open flames of any sort are allowed on the walkways, wharves, docks, barges or piers of the Port, except as specifically allowed at the RV Park at Newport Marina.
- (a) A vessel shall be considered "unattended" if no person having attained the age of twelve (12) years is physically present upon the boat or vessel.
- 2.47 *Fireworks.*** No fireworks are allowed on any properties owned, managed or otherwise controlled by the Port, with the exception of pyrotechnic displays as specifically allowed by the Port Commission and the Fire Marshal.
- 2.48 *Flares/Firearms.*** It is unlawful for any person to discharge flares or firearms in the harbor area, on the walkways, wharves, docks, barges, piers or any properties owned, managed or otherwise controlled by the Port or while moored to Port facilities.
- 2.49 *Swimming/SCUBA Diving/Related Activities.*** Swimming, scuba diving, skin diving, snorkeling, and related activities are not allowed from or near to properties owned, managed or otherwise controlled by the Port, except when such activities are required for vessel maintenance. Marker flags are required at the location of such underwater maintenance activity.
- 2.50 *Operation of Wheeled Vehicles on Docks.*** Bicycling, skateboarding or use of motorcycles or any other wheeled vehicle, except for dock-carts, hand-carts, wagons, or wheelbarrows used for transporting supplies to and from a vessel, unless said vehicle or device is designed for and used by a physically handicapped person to ambulate is not permitted on the Port docks. Use of wheeled vehicles is permitted where expressly allowed by posted signs and only while such use complies with the posted signs. Violation of this section is a Class D violation of this Code.
- 2.51 *Placement of Structures.*** No buildings or structures of any nature whatsoever may be placed or constructed on Port properties or facilities without first obtaining written approval of the Port.
- 2.52 *Gear and Vessel Equipment/Dock Boxes/Steps and Stairways.*** All vessel Operators, crew or guests using the Port area or its facilities for moorage or otherwise shall keep the pier or finger in the vicinity of the vessel neat, clean, orderly, and shipshape.

- (a) Except as otherwise provided in this Code, no gear, equipment, materials, tackle, dock boxes, small boats, dinghies or other storage or debris may be left on Port docks, piers, finger piers or other Port facilities or properties except in areas the Port has designated and posted for such purposes.
- (b) Any property left elsewhere upon Port facilities without a storage permit is abandoned and may immediately and without notice be moved.
- (c) Steps and stairways shall be of a size and construction acceptable to the Harbor Master, and shall be marked with owner identification and boat name. Steps and stairways may not be used as storage areas. The placement of steps and stairways may not create an obstruction and may not extend further than half the width of the finger pier. It is the responsibility of the Operator to meet all applicable state and federal standards.

2.53 *Welding, Metal Cutting/Fabrication.* Welding, metal cutting and/or fabrication are prohibited on Port floating and fixed docks, wharves, walkways or other Port properties, except in designated areas and with the express permission of the Harbor Master. No person may perform any welding, metal cutting and/or fabrication in a manner reasonably likely to cause injury, harm, or damage to any person or property at or about the area of use, nor may any person perform any welding, metal cutting and/or fabrication unless using equipment which meets minimum safety requirements as determined by the Harbor Master and having in their possession a fire extinguisher of the kind approved by the U.S. Coast Guard for use on a commercial vessel.

2.54 *Sandblasting/Spray Painting.* Sandblasting and spray painting are prohibited on Port docks, wharves and walkways.

2.55 *Net Repair.* Nets may be repaired on vessels and in specifically designated areas on Port property.

- (a) The Harbor Master must authorize any net repair on Port facilities unless the net repair is taking place on a vessel or in an area designated for that purpose.
- (b) A fee, as set forth in the fee schedule in effect at the time, will be charged for lot space used for net repair.

2.56 *Gear Repair.*

- (a) The Harbor Master must authorize any gear repair on Port facilities unless the repair is taking place on a vessel or in areas designated for that purpose.
- (b) All gear being repaired on Port facilities must be marked with readily visible owner name, vessel name and documentation or registration number.

2.57 *Lot Storage.*

- (a) Subject to availability, space may be made available to moorage holders for the purposes of short-term staging or long-term storage of working gear only such as net, crab pots, crab tanks and other similar commercial fisheries gear. Preference will be given to semi-annual or annual moorage agreement holders. Gear storage is subject to the following conditions:
- (b) No gear may be left on Port properties, including the hoist dock or the east pier at the International Terminal, without first entering a Lot Storage Agreement with the Port. Notification to the Port of removal of gear is required. If notification of removal is not provided, storage charges will continue to accrue.
- (c) Each item or group of crab pots, or similar fishing gear, stored at Port facilities shall be marked with a tag containing the name and number of the vessel to which the gear belongs. A single tag may be utilized for each group of crab pots or similar fishing gear if the tag specifies the number of crab pots or similar fishing gear included in the group. Gear shall be secured in a manner that facilitates safe movement by forklift.
- (d) Except as elsewhere provided herein, Port equipment used for the movement or placement of gear may be operated by Port personnel only.
- (e) The Port may move stored property for better utilization of Port properties.
- (f) Unidentified gear is abandoned personal property and may be disposed of accordingly.

2.58 Hoist Use. No person may operate a Port owned hoist in a manner that poses a substantial risk of injury, harm or hazard to any person or property at or about the hoist, nor may any person operate a hoist in such a manner as to cause harm or damage to said hoist. The person or entity operating the hoist shall indemnify, defend and hold Port harmless from any claims, losses or damages caused by the operation of the hoist.

- (a) Operators are responsible for safe operation and use of hoists and are required to visually inspect all gear and equipment prior to operation of hoists. It is a violation of this Code to operate a hoist without the knowledge, training and/or experience necessary therefor.
- (b) Hoists with a lifting capacity in excess of 1,750 pounds may be operated exclusively by Port personnel.
- (c) Accidents, loss or damage are to be reported to Port personnel as soon as possible. The person operating the hoist, their vessel and its operator are liable for any repair costs.
- (d) Overloading hoists, tampering with limit switches, double-blocking, re-rigging, or unauthorized repairs or modifications of hoists are expressly forbidden. Any damage caused by the foregoing shall be the sole responsibility of the vessel owner/operator.

- (e) Failure to report damage or tampering with a hoist shall result in termination of rights of use of the facility.
- (f) Upon completion of hoist work, hoist and control panels should be returned to their original position.
- (g) Violations of any provisions of this section are Class A Violations of this Code.

2.59 Forklifts. No person other than a Port employee may operate a Port owned forklift. Subject to availability, said forklift and operator may be made available by the Port upon request at the risk of the person or entity requesting such services, who by the act of requesting such services shall indemnify, defend and hold the Port of Newport harmless against any claims, losses or damages caused by the operation of the forklift.

- (a) It is a Class A Violation of this Code for any person other than a Port employee to operate a forklift on Port property.

2.60 Parking/Traffic.¹⁰

- (a) No person may park any vehicle or trailer on Port property in a manner not consistent with all applicable posted signs.
- (b) The Commission may, by resolution, require permits to park in any area designated as permit only parking. The Commission may also, by resolution, limit the quantity of permits available and set eligibility criteria therefor.
- (c) Overnight vehicle camping is allowed on Port property only at the RV Park at Newport Marina or other areas designated as dry camping.
- (d) No person may park or permit a motor vehicle to remain unattended, in front of any launch ramp, walkway, or turnaround of the Port.
- (e) No person may park or permit an unattended motor vehicle to remain in fire lanes, driveways, the gear storage area or any other area where parking is posted as prohibited.
- (f) No person may remain in or occupy any motor vehicle, trailer, camper or other vehicle between the hours of 10:00 p.m. and 4:00 a.m while said vehicle is parked on Port properties except in designated and posted areas.
- (g) Overnight parking is available for Port customers only in designated and posted areas only.
- (h) Operation of a motor vehicle on Port properties in excess of the posted speed limit or in a manner which creates a hazard to motor or foot traffic or property is prohibited.

¹⁰ Port of Newport Resolution No. 2014-11 Setting Rates, Fees and Charges 9/23/2014

- (i) No person may repair or dismantle any motor vehicle, boat trailer, or recreational vehicle that is parked on Port properties, except with the express authorization of the Harbor Master.
- (j) Any vehicle parked in violation of this Code is subject to impoundment and may be towed from Port properties and stored at the owner's risk and expense thereof in the manner provided by ORS 98.805 to 98.818.
- (k) The penalty for a parking violation of this section may be set by the Port Commission by resolution. The penalty for a parking violation can be found in the then-current Port Rates, Fees and Charges.
- (l) The violation of any other provision of this section is a Class D violation of this Code. If any violation of this code results in a disruption to the orderly and efficient operation of the Port or any portion thereof, said violation is a Class B violation of this Code.

2.61 *Animal Control on Port Property.* No animals are allowed on Port properties or on Port docks unless leashed and controlled by the owner, or on or in private property.

- (a) Animals are not allowed on the docks except to go directly to or from a boat and must be on a leash and controlled by the owner. No animal may be tied to any portion of the Port docks or properties.
- (b) No person having control of any animal on Port facilities may allow waste or droppings of that animal to remain on any wharf, dock, barge, pier or walkway of the Port. Animal waste or droppings shall be immediately removed and placed in the nearest waste receptacle.
- (c) The Harbor Master shall be authorized to request the impound by county animal control of any animal in violation of this Code.
- (d) The violation of this section is a Class D Violation of this Code.

2.62 *Regulation of Signs.* No person may write or post any written or printed matter in any place on Port properties, except upon bulletin boards designated for that purpose and only after obtaining permission from the Executive Director.

2.63 *Tents.* Tents are prohibited except in areas designated for tent camping.

2.64 *Public Art.*¹¹ Public art, commemorative benches, nameplates or other similar structures shall be reviewed and approved by the Port Commission before installation. The Commission may adopt a resolution to manage the review of public art and structures.

Chapter 3. International Terminal

3.21 [RESERVED]

¹¹ Port of Newport Resolution No. 2016-11 Amending the Facilities Code 9/27/2016

Chapter 4. Commercial Marina

4.21 Application. Unless otherwise specified, the provisions of this Chapter are applicable at the Port of Newport Commercial Marina. Where inconsistent with general provisions of Chapters 1 and 3 of this Code, the more specific provisions of this Chapter control.

4.22 Moorage.

- (a) The Harbor Master is responsible for ensuring the efficient use of Port moorage facilities at the Commercial Marina.
- (b) No person may moor any vessel in a location not designated for that vessel's length without the consent of the Harbor Master.
- (c) Any vessel not registered with the Port wishing to moor at the Commercial Marina shall attempt to contact the Harbor Master via, at a minimum, VHF Channel 12 prior to arrival and making fast to Port moorage facilities.
- (d) The Harbor Master or designee may instruct any vessel making such contact to moor at a specific location or berth, and the Owner or Operator shall moor the vessel in the assigned location.
- (e) If the Owner or Operator of any unregistered vessel is unable to contact the Harbor Master or other Port personnel prior to arrival and making fast to Port moorage facilities, the vessel may, subject to the provisions of this Code and Chapter moor at any available location appropriate for its size.
- (f) The Harbor Master or designee may order the movement and relocation of any vessel moored in the Commercial Marina when necessary for the efficient utilization and/or operation of moorage facilities within the Port.
 - (1) Such order is to be accomplished by contacting the contact person designated in the Moorage License Agreement for the vessel and, if the contact person is unavailable, the Operator and if different the Owner. If the Harbor Master is unable to reach either the contact person, Operator or Owner, the order may be made by posting notice upon the vessel. The contact shall be made by any method designated in the Moorage License Agreement other than by mail.
 - (2) It is a Class A Violation of this Code for a vessel to fail to comply with a relocation order within four hours of its being orally conveyed to the contact person, Operator or Owner, or posted on the vessel. ¹²
 - (3) A moorage licensee violates this Code if the Contact Person designated in the MLA is unavailable, whether or not contact is made with the vessel's Operator or Owner.

¹² Port of Newport Ordinance No. 2022-01 Amending the Facilities Code 6/28/2022

4.23 Rafting. Except as provided below, rafting within the Commercial Marina is prohibited.

- (a) A vessel may raft to another vessel that is securely moored to an inner berth in the Commercial Marina, and only if by rafting the vessel does not interfere with the efficient use and operation of the Marina.
- (b) A vessel may also raft to any other vessel in the Commercial Marina if the Harbor Master explicitly provides consent therefor.

4.24 Liveboard Vessels. Subject to the provisions of this section Liveboard Vessels are prohibited in the Commercial Marina.

- (a) Any Commercial Vessel actively engaged in trade, may apply for and enter a Liveboard Agreement with the Port. The Liveboard Agreement may specify a specific location or berth in which the vessel is required to moor.
- (b) A vessel that would otherwise qualify as a Liveboard Vessel, but where the living aboard is simply incidental to that vessel's trade, is not a Liveboard Vessel, provided the vessel has no more than three occupants.
- (c) The Commission may set by resolution a maximum number of Liveboard vessels permitted in the Commercial Marina and the Port may establish assigned moorage locations for Liveboard vessels.

Chapter 5. Recreational Marina

5.21 Application. Unless otherwise specified, the provisions of this Chapter are applicable at the Port of Newport Marina at South Beach. Where inconsistent with more general provisions of this Code, the more specific provisions of this Chapter control.

5.22 Registration. Vessels mooring at the Recreational Marina must register and enter a Moorage License Agreement ("MLA") with the Port at the Recreational Marina Office before or within 24 hours of arrival.

- (a) Late Registration. Vessels that arrive outside the hours of operation of the Recreational Marina Office without registering and entering an MLA with the Port prior to arrival shall pay, in addition to moorage fees under the MLA, a Late Registration Charge equal to one additional night's moorage.

5.23 Launch Ramp.

- (a) No person may launch or retrieve a vessel from the launch ramp without prepayment of launch or retrieval fees in amounts set by the Port. A vessel that is subject to a current and not delinquent MLA with an assigned moorage location at the Recreational Marina may be launched and retrieved without payment of launch or retrieval fees.

- (b) No unattended or unattached trailers are permitted in the launch or ramp area. Trailers must be moved to an area designated by the Port for trailers immediately upon launching.
- (c) Notwithstanding any other provision of this Code, it is a Class C Violation of this Code to: moor a vessel in the launch area; fail to remove a trailer from the launch or ramp area immediately after launching a vessel; or to otherwise obstruct or hinder use of the launch or ramp area. If any of the above violations result in a disruption to the orderly operation of the launch area, the violations shall be of Class B.

5.24 Dock Use and Moorage.

- (a) Moorage is permitted in only designated areas and only in a vessel's assigned slip.
- (b) Docks are for the use of moorage patrons. Crabbing and fishing from the docks is permitted only for moorage patrons and only from their own vessels or assigned moorage locations.
- (c) Docks and finger piers shall be kept clear of all equipment or gear including fillet tables. Mooring lines may not be tied across other moorage slips or walkways.
- (d) All tie-up lines and hoses shall be neatly coiled when not in use.
- (e) No portion of any vessel moored, including the bowsprit, may extend over the docks.

5.25 Liveaboard Vessels.

- (a) Liveaboard Vessels may not be moored in the Recreational Marina unless the Owner or Operator of the Vessel has applied for and entered a Liveaboard Agreement with the Port on terms set by the Port. The Port may, by resolution, set a maximum number of Liveaboard Vessels allowed in the Recreational Marina.
- (b) The Port may, by resolution, set eligibility criteria for Liveaboard Vessels including, without limitation, the size, type and condition of the vessel, as well as the creditworthiness, criminal and rental history of the party seeking to enter the Liveaboard Agreement. The Port may further require a formal application to live aboard in a form set by the Port and may charge a reasonable fee to evaluate the application.
- (c) Prevention of Sewage Discharge. The Owner or Operator of a vessel mooring under a Liveaboard Agreement shall, upon notice by the Port, render their vessel unable to readily discharge sewage into harbor waters. The Owner or Operator of any such vessel shall permit, upon reasonable notice, the Port to board and/or enter any vessel moored under a Liveaboard Agreement for the purposes of inspecting the vessel for improper discharge of sewage or the addition of dye markers to the vessel's sewage holding tank.

5.26 Dock Storage.¹³ Subject to this section, no bins, lockers, stairways, ladders, dinghies, small boats, fishing or crabbing equipment, fillet tables, or other personal property may be left on docks or piers.

- (a) Storage boxes may be placed at the triangular finger pier connection provided they are:
 - (1) Triangular in shape (90-degrees),
 - (2) 50" width across back,
 - (3) 30" along each of the two sides and
 - (4) No taller than 33", and
 - (5) Approved by the Harbormaster.
- (b) If a piling obstructs ability to use triangular area for storage box, a rectangular box no larger than 24" wide, 48" long and 33" high may be placed on the dock immediately in front of vessel, if the box is approved by the Harbormaster.
- (c) No boxes are to be homemade or constructed by Rubbermaid or SunCast or of similar construction material.
- (d) Boxes must be attached with exterior brackets to allow for removal without opening the box. Specific instructions can be obtained from the Harbormaster or at the Marina Office.
- (e) Such boxes are for the storage of equipment and tools related to the vessel only and may not be used a fillet tables. No flammable liquids may be stored at any time, and no powered electrical appliances of any sort may be stored for use therein.
- (f) Port may provide pre-approved boxes to moorage customers for an appropriate charge.
- (g) Portable stairways no wider than half the width of the finger pier may be left on the finger pier in a manner that does not obstruct foot traffic along the finger pier.
- (h) Both storage boxes and portable stairways must be labeled with the name of the vessel and/or its Owner/Operator.

¹³ Port of Newport Resolution 2014-04 Amending Facilities Code 5/22/2014

5.27 Signs.

- (a) Posting of signs for the sale of vessels moored in the Recreational Marina is permitted provided such signs are posted only on the vessel marketed for sale, the size of any such sign does not exceed one square foot, and provided the sign does not advertise any activity not permitted by this Code.

5.28 Maintenance and Repair.

- (a) Repairs involving exterior or spray painting, sandblasting, welding or burning on vessels are prohibited without the advance written authorization of the Harbor Master.

5.29 Reservations.

- (a) The Port may, but is not obligated to, take advance reservations for moorage for vessels other than Transient Vessels for monthly, annual or semi-annual moorage up to 6 months in advance.
- (b) The Port shall collect a nonrefundable reservation fee at the time of the making of a reservation in an amount set by the Port. The reservation fee will be applied to moorage fees for the time reserved.
- (c) The individual or entity making the reservation shall, prior to or concurrent with arrival and before mooring, register the vessel with the Port and execute and MLA.

5.30 Moorage.¹⁴

- (a) The Harbor Master is responsible for ensuring the efficient use of Port moorage facilities at the Recreational Marina.
- (b) No person may moor any vessel in a location not designated for that vessel's length without the consent of the Harbor Master or prior arrangements with the Marina Office.
- (c) Any vessel not registered with the Port wishing to moor at the Recreational Marina shall attempt to contact the Marina Office prior to arrival and making fast to Port moorage facilities.
- (d) The Harbor Master may instruct any vessel making such contact to moor at a specific location or berth, and the Owner or Operator shall moor the vessel in the assigned location.
- (e) If the Owner or Operator of any unregistered vessel is unable to contact the Port prior to arrival and making fast to Port moorage facilities, the vessel may, subject to the

¹⁴ Port of Newport Ordinance 2022-01 Amending Facilities Code 6/28/2022

provisions of this Code and Chapter moor at J Dock at a location appropriate for its size.

- (f) The Harbor Master or Marina Office may order the movement and relocation of any vessel moored in the Commercial Marina when necessary for the efficient utilization and/or operation of moorage facilities within the Port.
 - (1) Such order is to be accomplished by contacting the contact person designated in the Moorage License Agreement for the vessel and, if the contact person is unavailable, the Owner or Operator, if different the Owner. If the Port is unable to reach either the contact person, Operator or Owner, the order may be made by posting notice upon the vessel. The contact shall be made by any method designated in the Moorage License Agreement other than by mail.
 - (2) It is a Class A Violation of this Code for a vessel to fail to comply with a relocation order within four hours of its being orally conveyed to the contact person, Operator or Owner, or posted on the vessel.
 - (3) A moorage licensee violates this Code if the Contact Person designated in the MLA is unavailable, regardless if contact is made with the vessel's Operator or Owner.

5.31 Seafood Product Sale or Purchase.¹⁵

Retail sales on the marina premises are prohibited except by tenants that operate under an active lease from the Port. Moorage holders shall not operate a retail sales business in the marina unless they are a tenant under a lease that specifically covers the retail sales business.

Chapter 6. Port of Newport RV Park

6.21 Application. Unless otherwise specified, the provisions of this Chapter are applicable at the Port of Newport RV Park at the Marina at South Beach (the "RV Park"). Where inconsistent with general provisions of Chapters 1 and 3 of this Code, the more specific provisions of this Chapter control.

6.22 Conditions of Admittance and Occupancy.

- (a) The RV Park is for recreational vehicles only. It may not be used as a permanent address.
- (b) All individuals within the RV Park must at all times comply with the applicable provisions of this Code as well as all posted signs and rules. Failure to do so is a violation of this Code.

6.23 Registration. Patrons shall register prior to parking within the RV Park.

¹⁵ Port of Newport Ordinance 2022-02 Amending Facilities Code 5/23/2023

6.24 Fees. All fees are payable in advance.

6.25 Parking. Parking shall be only in numbered areas assigned for overnight use only, except in the areas of the dry camping area where areas are not numbered.

- (a) One recreational vehicle plus one towing or towed vehicle is allowed per assigned space. No boats or boat trailers are allowed in RV spaces, unless the combined length of all vehicles, trailers, and the like, is less than the maximum length allowed for the particular space.

6.26 Campfires and Open Flames¹⁶. No open campfires or open flames are permitted within 15 feet of a structure, vehicle, trailer or combustible material. Propane crab cookers are also prohibited within five feet of a structure or vehicle. Portable propane grills and warmers are allowed in campsites and picnic bunkers.

6.27 Refuse. Patrons may only dispose of refuse in containers provided for that purpose and shall keep RV spaces free of debris. Failure to so act is a violation of this Code.

6.28 Pets. Pets shall be kept leashed and under the control of the owner at all times. Pets may not be left on a leash or tether outside the RV when the owner is not present.

6.29 Quiet Hours. It is a violation of this Code to cause an unreasonable amount of noise or other disturbance during posted quiet hours.

Chapter 7. Enforcement

7.21 Peace Officers. The provisions of this Code may also be enforced by any peace officer of the State of Oregon, County of Lincoln, City of Newport or Port of Newport.

7.22 Notice and Opportunity to be Heard. Where the Port undertakes action under sections 2.5, 2.24 and 7.12 of this Code, such action may be appealed only as follows:

- (a) First, by providing written notice of appeal to the Executive Director within ten days of service of notice of the action to be appealed. The notice shall contain, at least, a statement describing the action appealed, the facts forming the basis for the appeal, and the name, mailing address and phone number of the person appealing. The Executive Director shall rule upon the appeal within twenty-one days of receipt thereof. The Executive Director's ruling shall be served upon the appealing party via first class mail to the address provided in the appeal.
- (b) The Executive Director's decision on the appeal may be appealed to the Board of Commissioners of the Port of Newport by providing written notice thereof to the Port within five days of service of the Executive Director's decision. The notice shall contain, at a minimum, a statement describing the action appealed, the facts forming the basis

¹⁶ Port of Newport Resolution No. 2016-11 Amending the Facilities Code 9/27/2016

for the appeal, and the name, mailing address and phone number of the party appealing.

- (c) The appeal shall be heard by the Commission at its next regularly scheduled meeting or at a special session of the Commission, provided that notice thereof is mailed to the person appealing at least one week prior thereto.
- (d) The action appealed shall remain valid and in force unless and until overturned by the Executive Director or by resolution of the Commission.
- (e) The duties of the Executive Director under this section may not be delegated.
- (f) Where a right to appeal actions by the Port exists under Federal or State law that preempts this Code, including, without limitation, due process rights under either the United States or Oregon Constitutions, such appeal shall be conducted under the provisions of this section.

7.23 Civil Penalties. Any person or vessel violating the provisions of this Code shall be liable to the Port for a civil penalty as provided in this Chapter.

7.24 Schedule of Civil Penalties¹⁷.

- (a) The civil penalty assessed under this Chapter shall be as follows, together with the costs to repair or replace any Port property damaged by the violation, or if the damage is not repaired, in the amount of the diminution in value thereof as a result of the violation:

<i>Paid in Full</i>	<i>0 – 14 Days</i>	<i>15 – 30 Days</i>	<i>30+ Days</i>
Class A Violation	\$343.98	\$687.96	\$1,146.60
Class B Violation	\$172.54	\$343.98	\$573.30
Class C Violation	\$34.94	\$68.80	\$114.66
Class D Violation	\$17.47	\$34.94	\$57.88
Parking Violation	See Current Rates		

- (b) The violation of any provision of this Code for which a violation class is unspecified shall be deemed a Class C violation

7.25 Continuing Violations. When a violation of this code is of a continuing nature, a separate violation will be deemed to occur on each calendar day that the violation continues, and the person or vessel responsible therefore shall be liable for a civil penalty for each violation.

7.26 Chronic Violations. A violation is deemed to be chronic if it occurs more than once in a ninety day period in which case the scheduled penalty shall double.

¹⁷ Port of Newport Resolution 2020-10 Setting Rates, Fees & Charges

7.27 Action to Collect Civil Penalty.

- (a) The Port may commence a civil action to collect any civil penalty or penalties under this Chapter, together with interest at the statutory rate and the Port's reasonably incurred attorney fees, costs, disbursements and other costs of collection.
- (b) It shall be an affirmative defense to any action under §7.7(a) that the person or vessel against whom the action is brought did not commit the violation(s) alleged.

7.28 Civil Action for Amounts Due under this Code.

- (a) The Port may commence a civil action against any person or vessel responsible for payment of any charges or liabilities under this Code for any amounts due together with the Port's reasonably incurred attorney fees, costs, disbursements and other costs of collection.

7.29 Civil Action for Damage to Port Property or Interference with Port Operations.

- (a) Any person or vessel that causes either damage to Port property or a substantial interference with Port operations shall be liable to the Port for any costs or damages incurred by the Port in connection therewith.
- (b) The Port may commence a civil action to collect any liability under §7.9(a) together with interest at the statutory rate and the Port's reasonably incurred attorney fees, costs, disbursements and other costs of collection.

7.30 Assignment. Any right of action created under this chapter may be assigned by the Port. The assignee thereof will remain subject to any defenses available against the Port.

7.31 Disposal of Vessels and Personal Property.

- (a) Hazardous vessels, or abandoned vessels to which no failure to pay is attributable, may be seized, removed and disposed of by the Port pursuant to the procedures of ORS 830.907 to ORS 830.927.
- (b) Any vessel or piece of personal property to which a failure to pay is attributable located within any Port facility may be foreclosed upon by the Port pursuant to the procedures of ORS 87.152 to ORS 87.214.
 - (1) The Port may take any steps reasonably necessary to retain possession of any such vessel or personal property including, without limitation, the use of chains, ropes, and locks, removal from the water, or removal to storage areas to secure the vessel and ensure that the same remains in the possession and control of the Port and cannot be removed from Port facilities.
 - (2) The notice required by ORS 87.192 (2) shall also be posted to the vessel in a conspicuous place, if the vessel has not been moved under §7.11(b)(1) above, and if the vessel has been so moved, at a conspicuous place at the moorage location from which the vessel was moved.

- (c) Except as otherwise required by law, the Port shall in no way be obligated to give the Owner and/or Operator of a vessel or the owner and/or bailee of personal property, notice prior to the securing or removal of a vessel or personal property.
- (d) **Reservation of Other Rights and Remedies.** The rights and remedies granted under this Code are cumulative with the Port's other rights and remedies existing at law (specifically including, without limitation, the procedures found in ORS 98.245 and ORS 783.010, *et seq.*), in equity or admiralty. Each such right and remedy may be exercised, wholly or in part, from time to time and without waiving any other rights or remedies which the Port may have against the vessel, the vessel Owner or Operator, or against the personal property of the same. No delay in the enforcement of any right or remedy shall be deemed to constitute a waiver or election with respect to any rights or remedies.

7.32 Termination of Moorage.

- (a) In addition to other penalties set forth in this Code, moorage of any vessel may be terminated upon thirty (30) days' notice that:
 - (1) The vessel and/or its owner or operator has been in violation of any part of this Code classified as a Class A or B violation as set forth herein more than three times in a twelve (12) month period; or
 - (2) that the vessel and/or its Owner/Operator has been in violation of any part of this Code or any ordinance of the Port of Newport and the violation is not corrected or ceased prior to expiration of a thirty (30) day notice period; or
 - (3) That the vessel is hazardous and setting forth the reasons therefor.
- (b) Notice of termination of moorage shall be by personal delivery or by mailing by certified mail notice to the Owner and the Operator at the last known addresses provided to Port by Owner or Operator, and by posting a notice on the vessel. The notice shall state that moorage will be terminated and that the Owner and/or Operator have 30 days from the date of the notice to remove the vessel from the moorage facility unless the Owner and/or Operator satisfies to the Executive Director that the Owner and/or Operator is either not in violation or has cured the violation and no similar violation occurred within the past 12 months, and the vessel Owner and/or its Operator pays to the Port all liabilities due it arising out of the violation. Upon termination of the Moorage License Agreement after such 30-day notice, if the affected vessel has not been removed from Port properties, the same shall be abandoned.

References

- 2013/05/28 Ordinance No. 1-2013 Adopting the Port Facilities Code
- 2014/05/22 Port of Newport Resolution 2014-04 Amending Facilities Code
- 2014/09/23 Port of Newport Resolution 2014-11 Setting Rates, Fees and Charges
- 2015/05/26 Port of Newport Resolution 2015-08 Establishing a Policy for Commercial Charter Boat Activity on Port Property
- 2016/09/27 Port of Newport Resolution 2016-11 Amending Facilities Code to Add Provisions for Fire Safety, Special Events & Public Art
- 2017/08/22 Port of Newport Resolution 2017.11 Amending Facilities Code to Add a Violation for Unauthorized Trash Removal
- 2017/10/30 Port of Newport Resolution 2017-12 Amending the Port of Newport Facilities Code to Change Sections Related to Insurance Coverage for Vessels
- 2018/06/11 Port of Newport Resolution 2018-07 Setting Rates, Fees & Charges
- 2018/08/28 Port of Newport Resolution 2018-11 Amending Facilities Code to Add an Exculpatory Item Regarding Personal Property
- 2019/02/26 Port of Newport Resolution 2019-03 Amending the Port Of Newport Facilities Code to Add a Definition of Regular Hours by Location and Clarify Hoist Dock Usage
- 2019/05/28 Port of Newport Resolution 2019-07 Setting Rates, Fees & Charges
- 2019/09/24 Port of Newport Resolution 2019-17 Setting Rates, Fees & Charges
- 2020/06/23 Port of Newport Resolution 2020-10 Setting Rates, Fees & Charges
- 2022/06/28 Port of Newport Ordinance 2022-01 Revising Facilities Code and Adding Moorage Section

Violations by Class

Class	Code
A	2.24(a) Charter Boat Activity. Refer to Resolution 2015-08, appended to the PONFC
A	2.40 Hoist Use. 2.40(g) (g) Violations of any provisions of this section are Class A Violations of this Code.
A	2.41 Forklifts. 2.41(a) It is a Class A Violation for any person other than a Port employee to operate a forklift on Port property.
B	1.10 Registration and Moorage License. 1.10(a)(7) . . .Failure to register is a Class B Violation of this Code.
B	2.42 Parking/Traffic. 2.42(l) . . .If any violation of this code results in a disruption to the orderly and efficient operation of the Port or any portion thereof, said violation is a Class B Violation.
B	4.2 Moorage. 4.2(f)(2) It is a Class B Violation of this Code for a vessel to fail to comply with a relocation order within four hours of its being orally conveyed to the contact person, Operator or Owner, or posted on the vessel.
B	5.3 Launch Ramp. 5.3(c) Notwithstanding any other provision of this Code, it is a Class C Violation of this Code to: moor a vessel in the launch area; fail to remove a trailer from the launch or ramp area immediately after launching a vessel; or to otherwise obstruct or hinder use of the launch or ramp area. If any of the above violations result in a disruption to the orderly operation of the launch area, the violations shall be of Class B .
C	2.14 Public Use of Port Properties/Facilities 2.14(a) Closure. The docks and Port properties are closed between dusk and dawn. . . Violation of this section is a Class C Violation of this Code.
C	5.3 Launch Ramp. 5.3(c) Notwithstanding any other provision of this Code, it is a Class C Violation of this Code to: moor a vessel in the launch area; fail to remove a trailer from the launch or ramp area immediately after launching a vessel; or to otherwise obstruct or hinder use of the launch or ramp area. If any of the above violations result in a disruption to the orderly operation of the launch area, the violations shall be of Class B .
C	7.4 Schedule of Civil Penalties. 7.4(b) The violation of any provision of this Code for which a violation class is unspecified shall be deemed a Class C violation.
D	1.10 Registration and Moorage License. 1.10(b)(2). . . Failure to meet the conditions of payment or payments as set forth in an approved installment plan is a Class D Violation of this Code and may result in a fine and/or immediate removal or seizure and sale of the vessel.
D	2.32 Operation of Wheeled Vehicles on Docks. Bicycling, skateboarding or use of motorcycles or any other wheeled vehicles. . .is not permitted on Port docks. . . Violation of this section is a Class D Violation of this Code.
D	2.42 Parking/Traffic. 2.42(l) The violation of other provision of this section is a Class D Violation of this code. . .
D	2.43 Animal Control on Port Property 2.43(d) The violation of this section is a Class D Violation.

(Resolution 2015-08 Appended in pdf version)