ORDINANCE NO. 99-01

ADOPTED January 26, 1999

AN ORDINANCE PROVIDING FOR THE CONTROL AND MANAGEMENT OF THE MOORING BASIN FACILITIES OF THE PORT OF ASTORIA, AND REPEALING ORDINANCE 91.02

WHEREAS, the Port of Astoria is a duly organized municipal corporation of Clatsop County, Oregon, and is the owner of certain mooring basin facilities, located within Clatsop County; and

WHEREAS, the mooring basin facilities of the Port of Astoria are public facilities; and

WHEREAS, it is in the best interests of the citizens of the Port of Astoria and the public to have a codified body of regulations to govern the use, occupancy or presence on or about Port of Astoria mooring basin facilities and the administration thereof.

NOW THEREFORE, THE BOARD OF COMMISSIONERS OF THE PORT OF ASTORIA ORDAIN AS FOLLOWS:

GENERAL PROVISIONS

TITLE: This ordinance shall be called "Rules and Regulations Governing the Administration of the Mooring Basin Facilities of the Port of Astoria".

PURPOSE and SCOPE: The purpose of these rules and regulations is to secure the most effective control and management of the mooring basin facilities of the Port of Astoria.

INTERPRETATION: If any section or part thereof of these rules and regulations is 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or any rule, regulation or standard established pursuant thereto, such section, or part thereof shall be construed, superseded or governed thereby. Nothing contained in this ordinance 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.

SEVERABILITY: The provisions of these rules and regulations are declared and if any portion or the application thereof to any person or property is held 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 mooring basin facilities of the Port of Astoria 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.

AVAILABILITY OF ORDINANCE: Anyone may inspect a copy of these rules and regulations at the Port of Astoria or Astoria Mooring Basin offices and copies may be obtained upon request and payment of the Port's copy charges.

CONSTRUCTION: Unless otherwise required by the context or any particular provision, the words or phrases defined in Part I: Definitions, shall have the meanings as set forth therein. 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 ordinance shall apply to individuals, partnerships, associations, and corporations alike.

REPEAL: The following ordinance is repealed: ORDINANCE NO. 91-02.

PART I: DEFINITIONS

ABANDONED:

The Port may deem a vessel abandoned if:

1. The vessel is not registered with the Port within 6 hours of commencement of use of Port moorage; or

2. The vessel is not removed from Port facilities as required under provisions of this Ordinance covering hazardous vessels and termination of moorage.

Personal property other than vessels shall be deemed 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 identified to a vessel is left on or in Port facilities in excess of 90 days after expiration of the moorage license agreement for resident vessels or in excess of five (5) days after expiration of the moorage license agreement for transient vessels and guest boats, provided, that personal property or gear associated with a vessel which is deemed abandoned under this Ordinance shall likewise be deemed abandoned.

DRAFT: Shall mean the depth of water a vessel draws when fully loaded.

ELECTROLYSIS: . Stray current corrosion shall be defined as the corrosion that results when a current from a battery or other external electrical source (AC or DC) causes a metal, in contact with an electrolyte, to become anodic with respect to another metal in contact with the same electrolyte.

EMERGENCY: Shall mean a state of imminent danger to life or property or navigation or the environment in which time is of the essence.

FEE SCHEDULE: Shall mean moorage and other appropriate rates, fees and charges as determined from time to time by resolution of the Board of Commissioners of the Port.

GEAR: Shall mean 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.

EXECUTIVE DIRECTOR: Shall mean that person duly appointed by the Commission of the Port of Astoria. The Executive Director is to administer the functions of all Port facilities and operations. Whenever by the provisions of this ordinance, a power is granted to the Executive Director or a duty is imposed upon him, the power may be exercised or duty performed by an assistant of the Executive Director, unless it is expressly otherwise provided.

HARBORMASTER: Shall mean the chief executive officer and his designated employees of the corporation contracting with the Port to serve as Harbormaster.

HAZARDOUS VESSEL: Shall mean a vessel which is determined by the Harbormaster 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.

LITTER: Shall mean 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.

LIVE-ABOARD: Any person who lives on a moored vessel owned by that person, for ten (10) or more days in any one month. Live-aboard persons must own and have registered in his or her name the vessel on which he or she resides.

MOORAGE: Shall mean 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.

MOORING BASIN FACILITIES: Shall mean the East Mooring Basin and West Mooring Basin, including the parking areas contiguous thereto.

MOORAGE LICENSE AGREEMENT: Shall mean an agreement between the boat owner or operator and the Port of Astoria for the assignment of, use of, and payment for moorage on a transient (daily or monthly), or annual basis.

OVERALL LENGTH: Shall mean the distance along the centerline from the foremost part of the bow (including the bow sprit) to the aftmost part of the stern, or boom, motor or any appenditure, regardless of keel length and regardless of registered or documented length.

OVERALL WIDTH: Shall mean the distance between the outermost part of each side of the vessel, regardless of registered or documented width.

OWNER/OPERATOR: Shall mean 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.

PARK: To place or leave any vehicle, trailer, or vessel on land within the boundaries of the Port of Astoria facilities.

PERSON: Shall mean individual, partnership, corporation, association or other form of legal entity.

PORT: Shall mean the Port of Astoria.

PORT COMMISSION: Shall mean the governing body of the Port of Astoria.

RESIDENT VESSEL: Shall mean any vessel holding an annual Moorage License Agreement with the Port of Astoria.

SEAFOOD PRODUCT: Shall mean 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.

SEWAGE: Shall mean water, chemical, or other liquid carried human or animal wastes from vessels, motor vehicles, trailers, residences, buildings, industrial or commercial establishments or other places with such ground water infiltration and surface water as may be present.

SHALL and MAY: "Shall" is mandatory. "May" is permissive.

TRANSIENT MOORAGE: Short-term berthage for three (3) months or less, for use of moorage facilities whereby the vessel is granted authority by the Port to moor.

TRANSIENT VESSEL OR GUEST BOAT: Any vessel using a Port moorage facility and which belongs to an owner who does not have an 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.

UNDERWAY: Shall mean the condition of a vessel, not at anchor, without moorings, and not made fast to the shore, or connected to shore power.

VEHICLE: Shall mean any self-propelled or powered device designed for transportation of persons and property. For the purpose of this ordinance, the word "vehicle" does not include boats, boat trailers, or travel trailers.

VESSEL: Shall mean every description of watercraft, including jet skis, seaplanes, in the water used or capable of being used as a means of transportation on the water, but does not include boathouses or floating homes.

VIOLATION VESSEL: Any vessel in violation of any portion of this ordinance.

PART II: MOORAGE AND HARBOR SERVICES

A. REGISTRATION. The owner/operator of any vessel which is not a resident vessel or any person having charge or responsibility therefore must register said vessel with the Port and receive from the Port an assigned moorage space within 6 hours after arrival in the mooring basin. If arrival time is after regular business hours or otherwise when the Harbormaster is not on duty to assign moorage, registration may be made by completing and depositing the registration form available at the drop-in boxes provided by the Port. Payment for the initial term of moorage and any required deposit is required at the time of registration, it being expressly provided that the vessel, its owner, the operator, and any person having responsibility or charge of the vessel will be each severally responsible for all moorage charges from the time of said moorage.

1. Owner/operator of vessel shall provide to the Port current and valid documentation and/or registration information, current billing information, owner and operator's name, residence and mailing address, telephone number, proof of ownership, and registrant's valid driver license number. The name, number, type, dimension, description and use of the vessel shall be provided at the time of registration. If the

registering person is an operator, owner authorization for moorage and other charges must be made available upon request of the Port.

2. Upon registration, owner/operator of vessel shall provide written notice to the Port of any structural concerns which could result in damage if the vessel is towed or dry docked. This notice shall be immediately updated from time to time by the owner/operator if the condition of the vessel changes.

3. Registration shall constitute permission for the Port to move or dry dock the vessel for such purposes as permitted under this ordinance.

B. **MOORAGE LICENSE AGREEMENTS**. No person shall moor a vessel at Port facilities for more than 6 hours without first having entered into a transient or annual Moorage License Agreement with the Port in form and manner provided by the Port. Said Moorage License Agreement, after endorsement by the Port, shall become the Moorage License Agreement for the initial period of moorage, and thereafter shall continue as the Moorage License Agreement under which the owner and the operator of the vessel agree to abide, subject to such changes in rates as adopted by the Port from time to time.

1. The Port may issue or renew a moorage license for up to, but not exceeding one (1) year. Upon expiration of the rental term, the Moorage License Agreement and all rights of the licensee thereunder shall automatically terminate unless payment for an additional term has been accepted by the Port. Prior arrangements must be made with the Harbormaster on any payment plan other than payment in full. Failure to meet the conditions of payment as set forth in an approved installment plan shall be a violation of this ordinance and may result in a fine and/or immediate removal or seizure and sale of the vessel. If a long-term Moorage License Agreement is not renewed, moorage shall be charged based on the applicable transient rate. No Moorage License Agreement shall be renewed unless the conditions of the original issuance are met nor shall a Moorage License Agreement be issued or renewed unless all fees and charges due and payable are paid.

2. A Moorage License Agreement is personal to the applicant and cannot be assigned, sold, transferred or involuntarily seized without written permission of the Harbormaster.

3. Moorage License Agreements shall be issued to a named owner or owners 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. The moorage space designated by the Moorage License Agreement may not be sub-let by the licensee. Nothing within the limitations 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 permanently assigned spaces.

To assist in scheduling, annual Moorage License holders shall notify Harbormaster of expected departure and arrival times.

4. Moorage assignment preference will be given to Annual Moorage License holders over other mooring basin users.

5. Moorage spaces may be reassigned at the option of the Port if the orderly administration of the moorage facility so requires. Licensees may apply for reassignment, however, reassignment is not a right or privilege of the Moorage License Agreement. If the owner/operator of the vessel does not consent to the reassignment, the Moorage License Agreement shall automatically terminate, owner/operator shall remove the vessel at Owner's cost from the assigned moorage space, and the owner/operator shall receive a refund of moorage in accord with Port's refund policy, less any payments due to the Port.

6. A long-term Moorage License Agreement may be canceled by a vessel owner/operator upon thirty (30) days written notice to the Port. Refunds, if any, shall be based on the Port's refund policy.

7. Annual Moorage License Agreement holders may reserve exclusive use of an assigned moorage space on a monthly basis by payment of fees equal to the monthly transient moorage rate for the space.

C. **REFUNDS.** Upon cancellation by Licensee of annual moorage there will be no refunds unless the cancellation is done within the first three months of the Moorage License Agreement. If canceled within the first month, the refund will be in full less the applicable daily rate fee for the number of days used. In the second month, the refund will be 66.67% less the daily rate for the number of days used that month. In the third month, the refund is 33.33% of the annual moorage, less the daily rate for the number of days used that month.

D. **PORT CHARGES; COLLECTION COSTS AND ATTORNEY'S FEES.** The vessel, its owner and its operator and the owner and the possessor of personal property using moorage facilities or purchasing other services, goods or materials from the Port shall be liable for all charges for moorage and storage, and all other charges due under this ordinance, together with all collection costs and expenses, including attorney's fees whether or not suit is filed incurred in collection of the sums due, or incurred in salvage, termination, removal and/or sale of vessels or their appurtenances, tackle, apparel and furniture, or any part thereof, or on personal property stored or left at Port premises.

1. Any account which remains unpaid in whole or in part thirty (30) days after invoice shall be considered delinquent.

2. 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 six (6) 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, prepay current transient moorage. Should the transient vessel owner/operator fail to renew the transient Moorage License Agreement or register and obtain a new Agreement within the time required, all transient moorage shall thereupon be considered delinquent.

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

4. A late fee shall be charged at the rate of 1.5 percent per month on the unpaid past due account balance.

E. **CONTRACTUAL RELATIONSHIP**. The Port does not accept any vessel, tackle, gear, equipment or property for storage and it shall not be liable in any manner for the safekeeping or condition of the same, and is not responsible therefore as a warehouseman. The Port shall not be responsible or liable for any damage or loss to, or of, the said vessel, tackle, gear, equipment or property either upon said vessel or upon the premises of the Port, from any cause whatever, or for injury to the licensee or invitees occasioned by any cause, upon the Port premises or adjacent thereto, except for the negligence of the Port. By application for moorage or making fast to Port property, vessel owner/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 its conditions change.

F. **INDEMNITY**. Licensee(s) agrees to indemnify and save the Port harmless from any loss or damage by fire, theft, or from any cause whatsoever and to indemnify and save the Port harmless from any and all liability for injury to or death of any person or persons or loss or damage to any property caused or occasioned by or arising out of the use of said Port's facilities by the licensee(s), except for the negligence of the Port.

The Port does not accept any liability for damages to property or injury or death of individuals caused by or resulting from persons, corporations, agents, or employees performing a service to a private vessel moored or located on Port property. The Harbormaster shall be authorized to enforce the Port rules to ensure security and safety on Port property including requiring appropriate hold harmless agreements, release agreements and evidence of insurance from persons or corporations providing service to vessels moored at Port property and from vessel owners/operators engaging persons or corporations to provide services to their vessels while moored on Port property.

G. **REMOVING OR SECURING VESSELS OR PROPERTY; PUBLIC SALE.** The Port may, solely at its option, employ the following procedures for the collection of delinquent moorage or storage charges, securing or removing vessels or personal property in cases of delinquency or abandonment, and public sale of vessels and personal property.

1. 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 resident vessel or personal property.

2. In cases of delinquency, or abandoned vessels and personal property, the Port may take reasonable measures including, but not limited to, the use of chains, ropes, and locks, removal from the water, or removal to storage areas to secure vessels and other personal property so that the same are in the possession and control of the Port and cannot be removed from Port facilities.

3. At the time of securing a vessel or other personal property, an authorized Port representative shall attach to such vessel or property a notice which shall contain the following information:

   (a) The date and time the notice was attached;

   (b) A statement that if the account, together with all expenses incurred in securing the vessel or property and the Port's collection costs, is not paid in full within sixty (60) days of the date of such notice, the vessel or personal property may be sold at public auction with proceeds applied to satisfy the Port charges; and

   (c) The address and telephone number where additional information may be obtained concerning release of the vessel or personal property.

   The notice may also establish the date and time the public auction is to be held and give other information for notices of foreclosure sales under ORS 87.192 (4).

4. Notice of securing a vessel or personal property shall be sent to the owner and, if different, to the operator thereof, by certified mail, return receipt requested, at the last addresses provided to the Port by the owner and/or operator.

5. The owner/operator of a vessel or personal property secured by the Port may recover possession as follows:

   (a) Making payment to the Port of all Port charges including costs incurred in securing the vessel or property, notification costs and other collection costs; or

(b) Entering into a written agreement satisfactory to the Port for installment payments of the unpaid balance, collection costs, etc., in addition to the payment of future charges when due, and, in the case of commercial vessels or commercial property, execution of a Confession of Judgment in favor of the Port for all sums then due and providing that the Port shall be entitled to judgment for the unpaid sums due at the time of filing of such Confession of Judgment, including costs, collection expenses and attorney fees; or

(c) By posting with the Port a sufficient cash bond or other acceptable security to be held in trust by the Port pending resolution of any disputed Port charges in a civil action in a court of competent jurisdiction. Upon entry of final judgment in such court, including any appeals, or upon any settlement of such dispute between the parties, the trust shall terminate and the Port shall receive so much of the bond or other security as is agreed or as is necessary to satisfy any judgment, costs and interest as may be awarded to the Port. If personal or real property was pledged as security, it shall be executed upon in the manner provided by law.

6. If a vessel or other personal property has been secured and the owner/operator does not regain possession by the above methods, the Port may, at its sole option, elect to sell the vessel or property at public sale. For all sales of vessels and other personal property, the Port adopts the procedures for notification, foreclosure and sale provided by Sections 87.172 through 87.206, Oregon Revised Statutes, as amended. The Port may bid all or part of its charges and expenses at the sale and may become a purchaser at the sale. Sale proceeds shall be applied first to the costs of sale, including attorney fees, then to discharge of moorage and other charges owed by the owner/operator, and the balance shall be paid as provided by ORS 87.206.

7. The rights and remedies granted under this Ordinance are cumulative with the Port's other rights and remedies existing at law, 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.

H. **SAFEKEEPING OF VESSELS**. Safekeeping of a vessel is the sole responsibility of the owner/operator. The owner/operator shall use all reasonable effort and caution to keep his vessel seaworthy, fully operational, securely moored, and to otherwise attend to the needs of the vessel. Failure to so maintain and secure the vessel may result in the vessel being deemed a hazardous vessel and subject to removal. Any costs incurred in such determination (i.e. marine survey, inspection costs, legal fees) shall be borne by the vessel owner and its operator.

1. The Port may, but is not required or obligated to, pump, tow, secure tie lines, board or move any vessel moored at the Port if such action is determined by the Harbormaster to be necessary for the safety or protection of that vessel, vessels nearby, Port facilities, navigable waterways, or because the vessel is not in its assigned moorage location or has exceeded its authorized moorage time. If the Harbormaster determines that such action is necessary, he shall give or attempt to give written or verbal notice to the vessel owner/operator at the registered address, of the need for services to the vessel.

2. If a vessel owner/operator fails, within a reasonable period of time after receipt of notice, to provide services needed for the protection of his vessel or other vessels or property, or if the Harbormaster is unable within a reasonable period of time to notify the owner or operator, the Harbormaster may, but is not required or obligated to, replace defective mooring lines, attach additional mooring lines, pump vessels that are taking on water, move any vessel for the purpose of protecting that vessel from fire or other hazard or for the protection of other vessels or property, or render such other services as the Harbormaster determines in the exercise of his discretion may be needed.

3. A fee, based upon the fee schedule in effect at the time of the service, shall be charged to the vessel owner/operator for each service the Harbormaster performs or causes to be performed for the protection of a vessel or adjacent property. All expense and risk of loss or damage resulting therefrom shall be borne by the vessel owner and its operator, as well as the cost of any salvage services rendered by the Port.

4. 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 harbor area or utilizing Port facilities. The Port is not liable for loss or damage to vessels, equipment, appurtenances, tackle, provisions, mooring lines, gear, supplies or any other article attached or relating to a vessel, whether maintained or affixed to a vessel or separately stored at Port facilities.

I. REMOVAL OF HAZARDOUS VESSELS

1. A hazardous vessel may immediately and without notice be moved by the Port, secured, placed in storage or removed from the moorage facilities whenever reasonably necessary for the protection and safety of the Port property, other vessels, navigation or the environment. All risk of loss or damage resulting from such movement shall be borne by the vessel owner and/or operator. All expenses incurred by the Port, including charges for salvage services, are for the account of the owner and/or operator. In the event the vessel is moved to another location or

facility, the vessel, its owner and its operator shall, in addition, be liable for the prevailing moorage rate and other fees charged at the location or facility to which the vessel is moved.

2. The Port shall give written notice requesting removal of hazardous vessels within fifteen (15) days of the date of such notice. Such notice shall be given by (1) posting the hazardous vessel, and (2) by personal delivery to the owner or by certified mail, return receipt requested, to the last address provided to the Port by the owner/operator. The same notice shall be given to the operator of a hazardous vessel if different from the owner.

3. The Port shall make a reasonable effort to give a notice requesting removal prior to moving a hazardous vessel where a non-emergency situation exists, however, the Port may move or remove hazardous vessels as it reasonably deems necessary for the protection of Port property, other vessels, navigation or the environment. If the Port moves a hazardous vessel without prior notice, notice shall be given as soon thereafter as practicable.

4. A hazardous vessel which remains in or on Port facilities in excess of fifteen (15) days from the date of a notice requesting removal may, at the option of the Port, be deemed an abandoned vessel.

5. In the event any vessel shall capsize, sink or otherwise be disabled in such a manner as to be a hazard to navigation or use of Port facilities, all loss, damage or cost of removing the same shall be chargeable to the vessel owner/operator and/or the person lawfully in possession thereof and/or the person bringing the same upon the Port facilities.

J. ABANDONED VESSELS OR PERSONAL PROPERTY.

1. Abandoned vessels may, at the option of the Port, be secured and sold at public auction as provided herein.

2. Abandoned personal property may, at the option of the Port, be secured, moved, placed in storage and sold at public auction as provided herein.

K. DENIAL OF MOORAGE.

1. The Port reserves the right to deny moorage if, in the discretion of the Harbormaster, said moorage would present a hazard to the safety of the harbor or the general public.

2. 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.

3. 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 Harbormaster has notified the owner/operator of the vessel that moorage or mooring facilities are denied.

4. 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 Harbormaster verbally or in writing, and shall be effective immediately. Notice relating to request for services and use of equipment shall be effective immediately. 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. 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.

L. **TERMINATION OF MOORAGE FOR VIOLATION OF THIS ORDINANCE**
In addition to other penalties as specifically set forth in this ordinance, 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 ordinance on three or more occasions 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 ordinance or any other ordinance of the Port of Astoria and the violation is not corrected or ceased prior to expiration of a thirty (30) day notice period.

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 in violation and any other vessel having the same owner/operator as the violation 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 all vessels owned by owner/operator from the moorage facility unless the owner and/or operator pays to the Port all costs and damages incurred as a result of the violation. Upon termination of the Moorage License Agreement after such 30-day notice, if the affected vessels have not been removed from Port properties, the same shall be deemed an abandoned vessels and may be disposed of by the Port as provided in this Ordinance.

M. **TRANSFER OF VESSEL.** Upon transfer of title of 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 the Harbormaster has given written consent to the transfer.

N. CUSTODIAL CARE OF VESSELS. Subject to acceptance thereof by the Harbormaster, at such times and under such circumstances as vessels may be delivered into the custody of the Port of Astoria , custodial charges shall be assessed against such vessel at such rate as set by the Port Commission from time to time by resolution.

O. MOORAGE FEES AND CHARGES. Moorage fees and fees for other services made available by the Port, shall be as established by the Board of Port Commissioners of the Port of Astoria by resolution. The fee for moorage shall be paid in advance at the beginning of the term.

P. SERVICES. The Port does not guarantee the provision of water or services. During periods in the winter, water pipes may be turned off.

PART III: RULES AND REGULATIONS RELATING TO MOORAGE FACILITIES

A. 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.

B. LOSS OR DAMAGE. Any person visiting or using the Port areas does so at his own risk. The Port is not responsible for loss or damage to property or persons within the Port area.

C. INDEMNITY/LIABILITY. Vessel owner and its operator agree to indemnify and save the Port harmless from any loss or damage to personal property by fire, theft, or from any cause whatsoever and to indemnify and save the Port harmless from any and all liability for injury to or death of any person or persons or loss or damage to any property caused or occasioned by or arising out of the use of said Port's facilities by the vessel owners, operators, agents, employees or guests, except for the negligence of the Port.

The Port does not accept any liability for damages to property or injury or death of individuals caused by or resulting from persons, corporations, agents, or employees performing a service to a private vessel moored or located on Port property. The Executive Director and Harbormaster shall be authorized to enforce the Port rules to ensure security and safety on Port property including requiring appropriate hold harmless agreements, release agreements and evidence of insurance from persons or corporations providing service to vessels moored at Port property and from vessel owners/operators engaging persons or corporations to provide services to their vessels while moored on Port property.

D. **SEAWORTHY/HAZARDOUS VESSELS**. Vessels moored in a Port facility must, at all times, be completely seaworthy, fully operational and ready for immediate cruising in local waters. Lack of "seaworthiness" may result in removal of the vessel as a hazardous vessel, unless:

1. The vessel is undergoing short-term (thirty (30) days or less) repairs that render the vessel inoperable; or

2. Authorization has been obtained from the Harbormaster to effect repair rendering the vessel inoperable longer than thirty (30) days.

E. **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 authorized by the Harbormaster. No fixtures such as antennae, flower pots, lights, etc. will be attached to any float or pile without approval of Harbormaster.

F. **FENDERING/BUMPERS.** Vessels are required to use fendering. The owner or operator of a vessel assigned moorage space may install standardized premolded rubber or vinyl bumpers of commercial manufacture as approved by the Harbormaster. Dock-affixed fendering shall consist only of materials approved by the Harbormaster and shall not include carpeting, rubber tires, fire hose or similar materials.

G. **ELECTRICAL SERVICE.** All electrical facilities erected on the Port docks for the purpose of providing electrical use shall not be used for any other purpose, and no person shall tie or connect any rope, line or make any attachment to moor any vessel to any Port electrical stanchion or other electrical facility.

All electrical cords and wiring shall be properly grounded and meet Underwriter's Laboratory approval for marine related service. No person shall 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.

Owner/operator may, with the express consent of the Port, connect to electrical service at the moorage location subject to the following:

1. The Port of Astoria specifically 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 its operator's own risk; Port shall not be liable for any damages caused or resulting from inadequate, excessive, or a surge in the electrical voltage or amperage.

3. Vessel owner and its operator agree to indemnify, defend and hold Port harmless

from any claims or damages arising out of or resulting from owner/operator's use of electrical service.

4. No person shall permit or suffer the drawing of more voltage or amperage than posted at the point of connection.

5. Vessel owner and its operator shall use properly sized twist lock type electrical plugs.

6. No cords or wires shall 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.

7. Vessel owner and its operator shall pay to Port all electrical charges based upon the fee schedule adopted by resolution by the Port Commission from time to time and in effect at the time.

8. No cord will be immersed in water.

H. **ELECTROLYSIS**. The Harbormaster of the Port of Astoria, or his designee, shall be authorized to 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 conductors of the 120 volt, single- phase power leads are equal.

2. The A.C. currents in the three conductors of a 120V/208V-240V single-phase electrical circuit balance.

3. The A.C. currents in the four conductors of a 120V/208V-240V three-phase electrical circuit balance.

4. No. A.C. electrical current is flowing in the ground wire.

5. No D.C. electrical current is flowing in the ground wire or A.C. conductors.

6. The ground wire is connected on board the vessel to the interface termination as required by the National Electrical Code.

7. The power cord shall be the U.S. Coast Guard-approved three conductor Number 10 wire marine cable for 120 volt A.C. single-phase circuits.

8. 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 the U.S.

Coast Guard requirements for marine application.

9. Power plugs and sockets used for 120V/208V-240 volt single phase currents shall be sized for 30 and 50 ampere currents.

10. Power plugs and sockets used for 120V/208V-240 volt three phase currents shall be sized for 30 and 50 ampere or greater currents.

11. No vessel shall be wired to the Port's electrical system in any other manner than with an approved power plug.

Any vessel in violation of the foregoing Sections shall be deemed hazardous and shall be subject to termination of moorage if owner/operator fails to correct or to demonstrate actions to correct the violation(s) within thirty (30) days after notification of the violation(s).

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

J. **SEWAGE/WASTE DISPOSAL FROM VESSELS.** No person on a vessel equipped with a toilet shall 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.

K. **COMPLIANCE WITH REGULATIONS, LAWS, SAFETY STANDARDS.** Any person utilizing Port properties shall obey all Port, Municipal, County, State and Federal regulations and laws, and generally accepted safety standards and requirements to insure that person's actions or vessel do not become a hazard to that person or other vessels, or persons, on Port facilities and Port properties. The Port retains the right to prevent, restrict, or suspend any activity deemed hazardous by the Harbormaster to that person or other vessels, or persons, on Port facilities and Port properties.

L. **VESSEL MOVEMENT/SPEED LIMITS/WATER SKIS/JET SKIS.** Vessel movement including jet skis within the moorage area shall be in compliance with the posted speed limits, rules and regulations as determined by the Harbormaster. Use of water skis within the moorage area is prohibited. Use of jet skis within the moorage area is prohibited.

M. **FUELING.** No person shall fuel or cause to be fueled, a vehicle or watercraft on properties of the Port except at areas designated by the Fire Marshall and approved by the Port for that purpose.

1. No person shall 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 shall not come into contact with sparks or excess heat or other conditions which may cause it to ignite.

2. No combustible or hazardous materials will be left unattended on float in any type of storage container without approval of Harbormaster.

3. Fueling shall be 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.

N. COMBUSTIBLES/ WASTE OIL. 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.

1. No person shall 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, or into any public sewer or drainage system.

2. No person may smoke on the fuel dock.

3. No combustible materials or waste oil shall be disposed of in mooring basin facilities except in the manner and at disposal sites established by the Harbormaster.

O. EXPLOSIVES. No person shall knowingly transport, carry, convey, store, stow, load or unload, or use on board any vessel within the jurisdiction of the Port of Astoria, any explosives or other dangerous articles except in accordance with the regulations of the United States Coast Guard, as set forth in Title 46, "Code of Federal Regulations, Part 146, Shipping", or as authorized by the State Fire Marshal.

It shall be the duty of the vessel owner and/or its operator to notify the of the Port of Astoria not less than five (5) days prior to the arrival in port of any vessel carrying any such explosives or dangerous articles.

P. WASTE/LITTER/SEWAGE DISPOSAL. No person shall 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.

1. No person shall use refuse or waste containers provided by the Port for other than

wastes, litter, or sewage generated on Port properties or waters controlled by the Port, except for those wastes, litter or sewage generated from a vessel's voyage.

2. Vessel owners and operators shall be held 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.

Q. **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.

R. **SEAFOOD PRODUCT SALE OR PURCHASE**. No person shall set up buying stations or any other commercial activity without first obtaining a permit from the Port and without obtaining all licenses and permits required by law for such activities and paying all required fees in advance.

S. **FISH PROCESSING ON PORT PROPERTIES**. No person shall clean or process fish or shellfish in the mooring basin except in facilities and equipment specifically designated and posted for that purpose.

T. **SUPERVISION OF CHILDREN**. Children under 12 years of age shall not be allowed on the Port docks unless supervised by a parent or responsible adult.

U. **OPEN FLAME DEVICES/COOKING**. No person having charge of or access to a vessel in the mooring basis facilities shall leave such vessel unattended while an open flame device is in operation. No cooking or open flames of any sort shall be allowed in mooring basis facilities except on private vessels.

1. "Open flame device" means any stove, furnace, lamp, heater, fireplace, barbecue or other similar device operating upon or burning coal, peat, kerosene, fuel oil, diesel oil, gas, gasoline 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.

2. A vessel shall be considered unattended if no person who has attained the age of twelve (12) years is physically present on the vessel.

3. By mooring such vessel in Port facilities, the Port shall be deemed to have been granted consent and permission to board any such boat or vessel which is reasonably believed to be in violation of this Section and to extinguish any such open flame device and to take any action reasonably necessary in the course thereof.

V. **FLARES/FIREARMS**. It shall be 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.

W. SWIMMING/SCUBA DIVING/RELATED ACTIVITIES. Swimming, scuba diving, skin diving, snorkeling, and related activities are not allowed in mooring basin facilities except when such activities are required for vessel maintenance. Marker flags are required at the location of such underwater maintenance activity and prior notification must be made to the Harbormaster.

X. OPERATION OF WHEELED VEHICLES ON MARINA WALKWAYS. 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 is prohibited, unless said vehicle or device is designed for and used by a physically handicapped person or use is approved by Harbormaster.

Y. GEAR AND VESSEL EQUIPMENT/DOCK BOXES/STEPS AND STAIRWAYS. All vessel owner/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.

1. No gear, materials, tackle, dock boxes, or other storage or debris shall be left on Port docks or other Port facilities, except as provided by this ordinance.

2. Steps and stairways shall be of a size and construction acceptable to the Harbormaster, and shall be marked with owner identification and boat name. Steps and stairways shall not be used as storage areas. The placement of steps and stairways shall not create an obstruction. It shall be the responsibility of the owner/operator to meet all applicable state and federal standards.

Z. REPAIR WORK. Welding, metal cutting and/or fabrication, sandblasting or spray painting are prohibited in mooring basin facilities, except in designated areas and with the express permission of the Harbormaster.

AA. GEAR REPAIR.

1. The Harbormaster or his authorized agent must authorize any gear repair in the mooring basin facilities unless the repair is taking place on a vessel. All gear repair on mooring basin facilities must be done within the area and during the time period authorized by the Harbormaster.

2. All gear being repaired on Port facilities must be marked with readily visible owner name, vessel name and Official Number issued by the U. S. Coast Guard or

registration number.

3. The Port shall not be liable for any loss or damage to gear being repaired on Port facilities.

BB. NOISE/OFFENSIVE BEHAVIOR. No person shall engage in behavior which creates a disturbance or nuisance or disturbs the tranquility of any person in the mooring basin. Vessel owners/operators are responsible for the behavior of their guest in the mooring basin. **Use of generators after 9:00 p.m. requires the prior permission of the Harbormaster.**

CC. ANIMAL CONTROL ON PORT PROPERTIES/FLOATS. No animal shall be allowed on Port properties or on Port floats unless said animal is on a leash and controlled by the owner, or on or in private property.

1. Animals shall not be allowed on the floats except to go directly to or from a boat and must be on a leash and controlled by the owner. No animal shall be tied to any portion of the Port floats or properties.

2. No person having control of any animal on Port facilities shall allow waste or droppings of that animal to remain on any wharf, float, barge, pier or walkway of the Port. Animal waste or droppings shall be immediately removed and placed in the nearest waste receptacle.

3. All persons shall comply with applicable City of Astoria ordinances and State law regarding control of dogs.

PART IV. LIVE-ABOARDS

A. PERCENTAGE/PRIVILEGE. The number of live-aboards within a mooring basin shall not exceed four percent (4%) of total slips available within that mooring basin. In the event that the limit of live-aboards in a mooring basin is reached, the Harbormaster will keep a waiting list with priority assigned by date of request of persons desiring to live aboard their boats. Living aboard a vessel is a privilege. The Port reserves the right to deny, suspend or cancel this privilege at will, if in the opinion of the Harbormaster, live-aboards interfere with the primary objectives of the marina, individually or in the marina as a whole.

B. SPECIFIC RULES FOR LIVE-ABOARDS.

1. Live-aboards shall pay, for the privilege of living aboard, such fees as may be

established by the Port of Astoria Board of Commissioners.

2. Only legal owners and family members residing with them may live aboard vessels. Live-aboards are required to have a current live-aboard agreement registration on file in the Harbormaster's office at all times. The registration shall be kept current and renewed annually on moorage anniversary.

3. Live-aboards are only allowed two (2) vehicles within the mooring basin property. All vehicles parked within the mooring basin property must be legally registered, licensed and insured to the slip holder and operable. Automotive work/repairs is strictly prohibited within the mooring basin property.

4. Live-aboards are required to pump their sewage waste tanks a minimum of every fourteen (14) days and provide proof thereof to the Harbormaster. Signature by the owner/operator and verification by the Harbormaster or his representative in the mooring basin facility pump-out station log is proof of compliance.

5. Live-aboards must maintain their boats in operational order such that they are capable of being used as transportation on the water.

C. NO FLOATING HOMES. Each live-aboard understands that his or her vessel is a boat, and not a "floating home" as defined by ORS 830.700 and the provisions of ORS 90.505 et seq. regarding "floating home" space rental do not apply to live-aboard vessels.

PART V: ENFORCEMENT

The Harbormaster and Executive Director or designee shall have the power and duty to enforce the provisions of this ordinance by written or verbal instructions, rules or regulations in the manner set by resolution of the Board of Commissioners of the Port of Astoria and in accordance with ORS 777.190.

The Harbormaster and Executive Director or designee may request persons violating these regulations to leave the Port areas and/or obtain the assistance of law officers to protect property, lives or preserve the peace.

Violation of this ordinance shall be grounds for immediate termination of any moorage license, contract or agreement entered into after the effective date hereof.

First Reading, the 15 day of December, 1998.

Second Reading and Adopted this 26 day of January, 1999 by the Board of Commissioners of the Port of Astoria.

Glenn Taggart, President

Dan Hess

Dan Hess, Secretary

Effective February 25, 1999