PORT OF ASTORIA

ORDINANCE 2025-01

AN ORDINANCE REGULATING ENCROACHMENT INTO UNAUTHORIZED AREAS

WHEREAS, pursuant to Oregon Revised Statutes ("ORS") 777.190 the Port of Astoria ("Port") may by ordinance establish regulations to provide for the policing, control, regulation and management of property owned, operated, maintained or controlled by the Port; and

WHEREAS, as authorized by ORS 777.250, the Port leases multiple Port properties to commercial tenants (hereinafter "Tenant," or collectively, "Tenants"), and through written lease agreements ("Lease Agreements") specifies the property that is subject to the lease ("Leased Area"); and

WHEREAS, from time to time, certain Tenant operations exceed the Leased Area, thereby encroaching onto properties leased by other Tenants or onto common areas intended for use by all Tenants and the general public ("Encroachment"); and

WHEREAS, the Port desires to enact rules and regulations to address such Encroachment, and to enact penalties therefor;

NOW, THEREFORE, the Port's Board of Commissioners hereby ordains as follows:

1. Purpose. The general purpose of this Ordinance is to establish regulations to address Encroachment by Tenants, and to establish penalties for the same.

2. Definitions. For purposes of this Ordinance:

   - "Encroach," "Encroaching," or "Encroachment" shall mean any unauthorized occupation or repeated use by a Tenant of Port property other than the Leased Area.

   - "Lease Agreement" shall include any written agreement between Port and Tenant for use of Port property, whether or not described as a "lease."

   - "Leased Area" shall mean the physical space(s) specifically described in the Lease Agreement for Tenant's use in carrying out the purpose(s) set forth in the Lease Agreement.

   - "Notice of Violation" shall mean a written notice issued by a Peace Officer to a Tenant for violation of this Ordinance.

   - "Peace Officer" shall include the Clatsop County Sheriff; the Oregon State Police; the City of Astoria Police; an authorized security officer for the Port; the Port's Executive Director; the Port's Deputy Director; or any designee of the Port's Executive Director or

Deputy Director.

- "Tenant" shall mean any person or entity authorized by and through a Lease Agreement to occupy or use a portion of Port property for personal or commercial purposes.

3. Prohibited Conduct. Upon the effective date of this Ordinance, it shall be a violation for any Tenant to engage in Encroachment.

4. Enforcement Authority. The provisions of this Ordinance may be enforced by any Peace Officer.

5. Process.

   A. Notice of Violation. Any Tenant found or observed to have engaged in Encroachment shall be issued a written notice ("Notice of Violation") that includes the following:

      - A citation to this Ordinance, a copy of which shall be attached to the Notice of Violation;

      - A statement that describes with reasonable specificity the nature of the Encroachment and the area(s) alleged to be Encroached upon, along with any supporting documentation;

      - A description of the penalty to be assessed. The enforcing Peace Officer may not assess a penalty greater than that set forth in this Ordinance but shall have the discretion to modify or postpone the assessment of a penalty without waiving the Port's right to later enforcement.

   B. Appeal. Any Tenant found to be in violation of this Ordinance may file an appeal in writing with the Executive Director, stating the basis for the appeal. The Executive Director shall consider whether the facts described justify the Notice of Violation and the penalty assessed, and whether the enforcing Peace Officer properly followed the procedures set forth in this Ordinance. If the Executive Director determines that the Notice of Violation was justified and proper procedures were followed, the Executive Director shall deny the appeal. If the Executive Director finds that the appeal is justified, the Executive Director may dismiss the Notice of Violation or adjust or excuse the penalty or penalties assessed. The Executive Director's decision shall be final.

6. Penalties. Pursuant to ORS 777.990 any Person violating this Ordinance commits a Class A misdemeanor.

   6.1 Maximum fines shall be as follows:

      6.1.1 For an individual:
         A. First offense: $100 per violation
         B. Subsequent offenses: $500 per violation

6.1.2 For a corporation:
A. First offense: $1,000 per violation
B. Subsequent offenses: $3,000 per violation

6.2 A separate penalty may be assessed for each day or portion thereof that the violation continues.

6.3 Penalties assessed under this Section shall be separate from, and in addition to, any penalties or other remedies available under state or local law or described in a lease or other agreement.

7. Effective Date. This Ordinance shall take effect thirty (30) days following its adoption.

8. Publication. The Board shall cause this Ordinance to be published for the period and in the manner required by ORS 198.530 to 198.560 and a certified copy of the signed Ordinance shall be filed in the records of the Port and with the Clatsop County Clerk.

ADOPTED THIS 4th day of February. 2025, by the following vote:

AYES: 5
NAYS: Ø
ABSTENTIONS: Ø
ABSENT: Ø

Signed: _____ Attest: _____
Commission Chair Secretary