

TITLE 11

PORTS AND HARBORS<sup>1/</sup>

Chapters:

- 11.05 General Provisions
- 11.10 Small Boat Harbor
- 11.15 Port of King Cove
- 11.20 Fuel Facility

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<sup>1/</sup> See Ord. 90-5, transferring a portion of the dock powers to the Aleutians East Borough for the exercise of such transferred powers on an area-wide basis but retaining the power for the city to exercise transferred powers within the city limits.

Title 11 - Ports and Harbors

**Chapter 11.05 -- General Provisions**

**Reserved**

## Chapter 11.10 -- Small Boat Harbor

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**Article 1. Miscellaneous Provisions**

**11.10.010 Title.** This chapter shall constitute the "King Cove Harbor Facilities Code" of the City of King Cove, Alaska, and may be cited as such. (Ord. 77-01 (part), 1977)

**11.10.015 Purpose.** The purpose of this chapter is to protect and preserve the lives, health, safety, and well-being of the people of the city who have property in, or use or work upon the boats using the city's boat harbor facilities, or who make sales and deliveries of goods and merchandise to boats therein, or who use these facilities in the course of visits for commercial or pleasure purposes; to protect the property of such boat owners by regulating the harbor and its facilities of nuisances, fire, and health hazards; to make reasonable charges for the use of certain facilities to enable the city, insofar as possible, to pay the cost of maintenance, operation and supervision of the city's boat harbor facilities from the revenue derived therefrom; to further all the provisions of this title as being liberally construed for the accomplishment of the purpose of promoting the general welfare; and to operate upon a nonprofit basis boat harbor facilities. (Ord. 77-01 (part), 1977)

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**11.10.020**      **Intent.** It is the intent of this chapter to favor the use of the facilities of the boat harbor by commercial fishermen, government boats, commercial boats in trade and commerce, and pleasure boats, and by the general public at large. It is further the intent of this chapter to prevent and discourage the use of facilities of the boat harbor by boats which have been abandoned by their owners to the point of becoming derelicts, or becoming a charge and nuisance. (Ord. 77-01 (part), 1977)

**11.10.025**      **State regulations adopted.** To the extent that they are not inconsistent with any provisions of this chapter, the regulations contained in the Alaska Administrative Code, Title 14, Chapter 30, "Water and Harbors," pertaining to the operation of harbors and harbor facilities, are adopted by reference and made a part of this chapter. (Ord. 77-01 (part), 1977)

**11.10.030**      **Boat harbor facilities.** "Boat harbor facilities" includes mooring devices, including but not limited to floats, fingers and stalls; grid irons; and other appurtenances located in the small boat harbors; land storage areas, and loading areas under the jurisdiction of the City of King Cove for the health, safety or convenience of the public. (Ord. 77-01 (part), 1977)

**11.10.035**      **Boats.** "Boats" means watercraft of every kind and description, including but not limited to vessels, ships and skiffs. Aircraft, while on the water or in air, shall not be covered by this chapter and may not be permitted in that area commonly known as King Cove Harbor.

**11.10.040**      **Boat owners.** "Boat owner" means the actual or registered owner, master, managing agent, person in navigational control of, or other person responsible for the operation of the boat. (Ord. 77-01 (part), 1977)

**11.10.045**      **Derelict.** "Derelict" means any boat moored or otherwise located in the boundaries of the boat harbor facilities which is forsaken, abandoned, deserted, or cast away, or which by appearance gives evidence of being forsaken, abandoned, deserted, or cast away, or which is unsound, unseaworthy, and unfit for its trade or occupation, and which by any substantial evidence of neglect may be considered abandoned. (Ord. 77-01 (part), 1977)

**11.10.050**      **Harbormaster.** "Harbormaster" means the duly appointed harbormaster and the assistant harbormasters of the City of King Cove, Alaska. (Ord. 77-01 (part), 1977)

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**11.10.055 Loading areas.** All of the approaches and designated areas of any float, when suitably posted and marked, are to be used only by the general public, without charge, for the purpose of loading and unloading of supplies, equipment and stores. (Ord. 77-01 (part), 1977)

**11.10.060 Mooring facilities reservation fee.** "Mooring facilities reservation fee" is that fee which is charged to the boat owner, in consideration for being granted a reserved mooring space in the boat harbor facilities. (Ord. 77-01 (part), 1977)

**11.10.065 Mooring facilities use fee.** "Mooring facilities use fee" is that fee which is charged to the boat owner for the use of an open mooring space in the boat harbor facilities or a vacant reserved mooring space for periods in excess of 24 consecutive hours after the boat owner has secured permission to use said reserved mooring space from the harbormaster and has paid a mooring facilities use fee. (Ord. 77-01 (part), 1977)

**11.10.070 Open mooring space.** "Open mooring space" means mooring space which has not been set aside and posted as a reserved mooring space and which is available on a "first-come, first-served" basis. An open mooring space is usually used for temporary or short-term mooring. (Ord. 77-01 (part), 1977)

**11.10.075 Reserved mooring space.** "Reserved mooring space" means mooring space which has been set aside and posted for long-term mooring with the prior knowledge and approval of the harbormaster and after the payment of the appropriate fee. (Ord. 77-01 (part), 1977)

## **Article 2. Administration and Regulation of Harbor Activities**

**11.10.210 Harbormaster.** A. There is created the position of harbormaster for the city, who, under the direction of the personnel director shall supervise and manage all King Cove boat harbor facilities. The harbormaster shall be appointed, paid, removed, and succeeded in office as other appointive positions of the city and shall take the oath of a city police officer.

B. The harbormaster shall enforce all of the provisions of this title and any rules and regulations duly adopted hereunder. In the performance of such duties the harbormaster shall have all of the powers of a police officer of the city.

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C. In connection with official duties, the harbormaster shall have the authority to board any boat within the boat harbor facilities.

D. The harbormaster may, under the direction of the mayor, post signs and notices that will inform the public at large and all boat owners of authorized and prohibited uses of the boat harbor facilities. (Ord. 77-01 (part), 1977)

**11.10.215 Registration.** A. Every boat owner using the boat harbor facilities is required to register his name, telephone number, post office, street address, the name and number of the boat, its length, its breadth, and registered tonnage, if any, with the harbormaster on forms to be provided by him for that purpose within 24 hours after such boat enters or utilizes the boat harbor facilities.

B. Any boat not required to be numbered under the U. S. Coast Guard regulations and using the boat harbor facilities shall be registered with the harbormaster. (Ord. 77-01 (part), 1977)

**11.10.220 Use of mooring facilities.** All the mooring spaces in the boat harbor facilities can be classified as either open mooring or reserved mooring. The use of either classification of mooring facilities is contingent upon the payment of the appropriate fee as set forth in this chapter. (Ord. 77-01 (part), 1977)

**11.10.225 Use of open mooring facilities.** A. Areas designated for open mooring shall be open to all members of the public. Such areas shall be used primarily for temporary mooring. Open mooring spaces shall be utilized on a "first-come, first-served" basis. No boats from other communities will be provided free open moorage per any kind of formal or informal reciprocal arrangement that may have been previously in effect.

B. No boat or boat owner shall have any exclusive right to open mooring space. Should any boat mooring at open mooring leave such space for any purpose, it shall have no exclusive right to return to the same space if, upon return, it is found that the space is occupied by another boat. (Ord. 77-01 (part), 1977; Ord. 80-4 § 4 (part), 1980; Ord. 91-6 § 4 (part), 1991)

**11.10.230 Use of reserved mooring facilities.** A. Every boat owner desiring to guarantee the availability of a mooring space by reserving a mooring space, or to moor temporarily at any vacant reserved stall or numbered mooring space shall apply therefor to the harbormaster. No such stall or space shall be used until so reserved or assigned and the appropriate fee therefor is paid in advance.

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B. Possession of a reservation for a specific mooring space does not imply nor guarantee to the holder any right to the exclusive use of such space for the duration of reservation agreement. Possession of a reservation is a guarantee that the reserved space shall be available for the use of the holder of the reservation during those periods when the subject boat is within the boat harbor facilities. The harbormaster may temporarily assign another boat to a reserved mooring space as he determines it expedient and only when the boat assigned to a reserved mooring space is away from the harbor area.

C. In an event that a holder of a mooring space reservation returns to the boat harbor facilities and finds his reserved mooring space occupied, the holder shall contact the harbormaster. The harbormaster shall cause the boat temporarily assigned to the reserved mooring space to be moved to another location.

D. The harbormaster shall inform users of the absent holder's reserved mooring space that said use shall continue only for the duration of the holder's boat's absence and that the harbormaster is authorized to move the temporarily assigned boat to another location upon return of the holder's boat. The user shall, if possible, inform the harbormaster as to where user can be contacted.

E. A boat owner who possesses a reservation for a mooring space shall not sublease or in any other manner permit the use of such mooring space to any other boat owner except as provided in this section.

F. The boat owner temporarily assigned to a reserved mooring space shall not use the utilities which may have been provided to that space for the exclusive use of the boat owner holding a reservation on that space.

G. Nothing in this section limits the harbormaster's authority to use the holder's reserved space during the absence of the holder's boat and to move moored boats to other locations in the event of fire or other emergency requiring such action.

H. No property rights are created by this section. The holder shall have only a license to use the space reserved to him as provided in this chapter. (Ord. 77-01 (part), 1977)

**11.10.235**      **Assignment of mooring facilities.**    A. The harbormaster shall, under the direction of the personnel director, supervise and manage all mooring spaces in the boat harbor facilities.

B. The harbormaster may, from time to time, in the interests of safety, order, or convenience and health, require the boat owner to change from one mooring space to another. When changes from one mooring space of the boat to another are made at the direction of the city, any charges for changes of utility service incurred because of that move shall be the responsibility of the city. (Ord. 77-01 (part), 1977)

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**11.10.240 Refusal of moorage facilities.** A. The harbormaster may refuse mooring facilities to aircraft, boathouses, floats, scows, rafts, pile drivers, and other cumbersome floating structures, or to any boat, vessel or floating structure which is or may become or create a fire hazard or otherwise become a menace or nuisance to the safety and welfare of other boats and their occupants.

B. Vessels unable to get underway on their own power and derelict vessels are prohibited from using harbor facilities unless another vessel capable of tending to the stricken vessel is chartered to stand by and render assistance if necessary. (Ord. 77-01 (part), 1977; Ord. 80-4 § 4 (part), 1980)

**11.10.245 Loading areas.** No boat shall remain moored in such designated areas for any period longer than is posted. No boat shall remain moored at the dock (i.e., which provides access to the floats) for longer than four hours unless permission is granted by the harbormaster. (Ord. 77-01 (part), 1977; Ord. 93-12 (part) 1993)

**11.10.250 Gridirons.** Gridirons shall be available at all times to boat owners for the purpose of bottom painting and repairs and other customary gridiron uses. (Ord. 77-01 (part), 1977)

**11.10.253 Warehouse use permit.** A. The City of King Cove, by and through its harbormaster, may issue temporary use permits for short-term use of a portion of the city warehouse commonly known as the King Cove Warehouse and located at the harbor, King Cove, Alaska, said use being specifically limited to approximately 10,000 square feet of the second story of said warehouse, commonly known as the loft. The purpose of the use permit is generally to allow those individuals in the fishing industry to have a facility to work on their equipment, although the harbormaster may issue permits for other uses. All permits will be issued on a short-term basis but the harbormaster, in his or her discretion, may issue a permit for more than one day's use. Utilization of the loft will be six dollars and seventy-five cents (\$6.75) per day for the first five days and, at the discretion of the harbormaster, fifty dollars (\$50.00) per day for every day thereafter.

B. All persons or entities desirous of obtaining use of said facility must make an application with the city harbormaster. The harbormaster has the discretion to issue permits or deny the same and to schedule use of the facility as he or she deems necessary for orderly utilization of said facility.

C. All use permits issued by the harbormaster will be revocable for any reasonable or just cause.

D. All applicants for a use permit must sign an indemnification clause identifying the city of all claims against the city as a result of the permittees use of the facility which will be kept on file by the harbormaster.

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E. All commercial vendors/services using the ground floor shall pay \$15.00/day without electricity. If electricity is used, a flat \$3.50/day will be added to the user's bill.

F. All general/individual use or commercial vendors/services using the ground floor warehouse space must have a current city business registration on file with the city office.

G. The harbormaster is granted the overall responsibility and accountability for commercial vendors/services using the warehouse. The harbormaster shall verify the commercial vendor/services has a current business registration on file prior to approving use of warehouse space.

(Ord. 91-1 § 4 (part), 1991; Ord. 93-12 (part), 1993; Ord. 95-17 § 1, 1995; Ord. 98-11, § 2 (part), 1998; Ord. 09-03, 2008)

**11.10.255 Boat haul-out area; Travelift.** A. The area generally described as the boat haul-out area is hereby designated and set aside for:

1. operating the boat haul-out, also referred to as the travelift, and

2. an area for temporary storage/boat repair.

B. A person wishing to utilize the boat haul-out and repair area may do so only in accordance with this ordinance and in accordance with directions of the harbormaster or his or her designee. (Ord. 90-04 § 4 (part), 1990)

**11.10.260 Use of boat haul-out area; Operation of travelift.**

A. Use of the boat haul-out and repair area will be coordinated through the harbormaster or his or her designee. Only trained city employees will operate the travelift. Space in the haul-out area will be available on a first come basis.

B. When utilizing the boat haul-out area for temporary repairs, a grace period of one week (seven days) after haul-out will be allowed. The grace period will be extended if a vessel is kept in the boat haul-out area for circumstances beyond the vessel owner's control. The harbormaster shall decide when such circumstances occur and whether to allow for the extension of the grace period. (Ord. 90-04 § 4 (part), 1990)

**11.10.265 Cleanup of boat haul-out area.** Any person using the city boat haul-out area shall be responsible for adequate cleanup following repair work and removal of his or her vessel. Failure to perform such cleanup in a satisfactory manner is a violation punishable by a civil fine of not more than fifty dollars (\$50.00). In addition, the violator will be liable for any damage to vehicles, persons, or other harm caused by his failure to adequately clean up following his or her use of the haul-out area. (Ord. 90-04 § 4 (part), 1990)

**11.10.270 Sanitation and safeguarding.** Every boat owner using the boat harbor facilities is requested to use due diligence in performing the following requirements:

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1. use all reasonable precautions in keeping the boat in his charge in a reasonably clean and sanitary condition with special attention to pure water and sanitary toilets;

2. use all reasonable precautions in keeping the boat in his charge free from fire hazards of any type or nature;

3. use all reasonable effort and precautions in keeping the boat in his charge well-secured, securely moored with lines in reasonably fit condition, sufficiently pumped out at all times to keep the boat afloat, and to otherwise attend the needs of the boat;

4. use adequate precautions to lock up and stow and otherwise safeguard all movable gear and tackle;

5. supply and use adequate fenders to safeguard floats and vessels from chafing and other damages. (Ord. 77-01 (part), 1977)

**11.10.275 Reckless operations.** It is unlawful for any boat owner using the boat harbor to operate or cause to be operated a boat in a reckless manner. For the purpose of this section "to operate in a reckless manner" means to operate a boat in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection, or at a speed or in a manner as to endanger or to be likely to endanger a person or property, or that which creates a substantial and unjustifiable risk of harm to person or property. A substantial and unjustifiable risk is a risk of such a nature and degree that the conscious disregard of it or a failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in a situation. (Ord. 77-01 (part), 1977)

**11.10.280 Negligent operations.** It is unlawful for any boat owner to operate or cause to operate a boat in a negligent manner. For the purpose of this section "to operate in a negligent manner" means the operation of a boat in such a manner as to create an unjustifiable risk of harm to a person or to property and who, as a result of the creation of the risk, actually endangers a person or property. An unjustifiable risk is a risk of such a nature and degree that a failure to avoid it constitutes a deviation from the standard of care that a reasonable person would observe in the situation. Proof that a defendant actually endangered a person or property is established by showing that, as a result of the defendant's operation:

1. an accident occurred;

2. a person, including the defendant, took evasive action to avoid an accident;

3. a person, including the defendant, stopped or slowed down suddenly to avoid an accident;

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4. a person or property, including the defendant or his property, was otherwise endangered; or

5. the offense of negligent driving is a lesser offense than, and included in, the offense of reckless driving, and a person charged with reckless driving may be convicted of the lesser charge of negligent driving. (Ord. 77-01 (part), 1977)

**11.10.285 Unlawful acts.** It shall be unlawful for any person using the boat harbor facilities to:

1. operate or to be in actual physical control of any boat when under the influence of intoxicating liquor or drugs;

2. operate or cause to be operated any boat within the boat harbor facilities that causes a wake or wave action which will damage, endanger or be likely to endanger any other boat or any of the boat harbor facilities including but not limited to floats, finger floats, any other boat or occupant thereof;

3. throw or otherwise cause to be deposited gasoline, oil, litter, trash, garbage or refuse on any float or into the waters of the boat harbor facilities;

4. allow or permit dogs or animals to run at large on any boat harbor facilities or to become a nuisance therein;

5. create or maintain any nuisance within the boat harbor facilities, or to conduct or carry on any unlawful business or occupation therein;

6. erect, place, post, or maintain any advertising matter, sign, or other printed matter, other than legal notices, on any part of the boat harbor facilities without approval thereof first being obtained from the harbormaster. All unauthorized advertising and signs shall be removed by the harbormaster;

7. write or post any written or printed matter or sign upon any bulletin board constructed or maintained by the city in the boat harbor facilities without first having obtained the permission of the harbormaster;

8. deposit, place, or leave any cargo, merchandise, supplies, freight, articles, or thing upon any float, ramp, decline, walk, or other public place in the boat harbor facilities, excepting at such place or places as may be designated as loading areas by the harbormaster;

9. fail to register with the harbormaster any boat occupying any of the boat harbor facilities;

10. tap, connect, disconnect, interfere with, or tamper with any electrical wiring, electrical outlet, or electrical device of any kind installed or maintained in the boat harbor facilities by the city without first having obtained the permission of the harbormaster; or to interfere with or

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tamper with any wharf, float, gangplank, ramp, associated water system or any other of the boat harbor facilities;

11. tie up, enter or otherwise use an open or a reserved mooring space except as provided for in this title;

12. disregard, deface, remove, tamper with or damage any sign or notice posted or erected by the harbormaster or by direction of the city engineer relating to the use of the boat harbor facilities; and

13. refuse to comply with any lawful order of the harbormaster. (Ord. 77-01 (part), 1977)

**11.10.290 Vehicles.** A. It is unlawful for any person to operate off-road vehicles, including vehicles commonly referred to as "three wheelers", "four wheelers", or "ATVs" on the dock position of the small boat harbor, including particularly the fingers and floats located therein. All other vehicles will use the dock area for loading and unloading only.

B. Violation of this section is an offense punishable by a civil fine of one hundred dollars (\$100.00). Notice of this prohibition and the applicable penalty may be posted within the harbor area. (Ord. 86-05 § 4, 1986)

**11.10.295 Reporting violations.** Complaints of any violations of the foregoing prohibited acts shall be made to the harbormaster. (Ord. 77-01 (part), 1977)

### **Article 3. Fees for Use of Harbor Facilities and Services**

**11.10.310 King Cove boat harbor facilities fund.** The treasurer may open and maintain a separate fund entitled "King Cove Harbor Fund". All mooring rentals and other fees arising out of the operation of the boat harbor facilities by the city, received by the city, may be deposited to this fund and used for such costs of operation, maintenance, and supervision of the boat harbor facilities. (Ord. 77-01 (part), 1977; Ord. 79-03 § 4 (part), 1979; Ord. 09-03, 2008)

**11.10.315 Boat length/width.** A. For purposes of determining the appropriate annual mooring facilities reservation fee, boat length shall be that distance measured in a straight line from stem to stern. Boat width shall be that distance measured at the beam of the vessel.

B. All vessels under 60 feet will be required to moor in the King Cove North Harbor; and all vessels 60 feet and over will be required to moor in the Babe Newman Harbor, unless this harbor is full and the harbormaster or his or her designee specifically approve temporary moorage at the docks and/or bulkhead in the King Cove North Harbor. (Ord. 77-01 (part), 1977; Ord. 80-04 § 4 (part), 1980; Ord. 2002-05, 2001; Ord. 09-03, 2008)

**11.10.320 Mooring facilities reservation fee.** A. Boat owners having applied for and been granted a reserved mooring space

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shall be required to pay in advance a Mooring Facilities Reservation Fee, which fee is an annual charge for the period July 1 through June 30.

B. The Mooring Facilities Reservation Fee schedule (Annual Moorage) applicable to mooring spaces located in the King Cove North Boat Harbor shall be one dollar and eight cents (\$1.08) per square foot per year of overall boat length or stall length, whichever is longer, times boat width and for the Babe Newman Harbor shall be forty dollars and fifty cents (\$40.50) times vessel length in feet. In the North Harbor the minimum length shall be 20 feet and the maximum 60 feet, except for the provisions of § 11.10.315(B). The minimum length shall be 61 feet in the Babe Newman Harbor.

C. The Mooring Facilities Reservation Fee schedule (Semi-Annual) applicable to mooring spaces located in the North and Babe Newman harbors shall be 70% of the respective annual fee.

D. The Mooring Facilities Reservation Fee schedule (Monthly) applicable to mooring spaces located in the North and Babe Newman harbors shall be 20% of the respective annual fee.

E. Individuals who wish to cancel their reservations to their mooring or stalls, upon notification to the harbor master of their intention, shall be allowed to rebate of the fee paid. This rebate shall be based on the number of full months remaining in the year.

F. A boat which is being occupied, or lived on, rented or leased as a place of human habitation or residence, shall be charged the regular fee for a reservation for a mooring space as provided herein. If a boat is occupied as herein set out for 15 days or more in any given month, the occupant shall be liable for the full month resident rate. Notification to the city that the boat shall be occupied as herein set out for less than 15 days in any given month shall be the burden of the occupant. Without such notification to the city, the occupant shall be liable for the full monthly charge.

G. Boat owners may retain space reserved by them only so long as they continue to be boat owners. If a boat owner sells or disposes of his or her boat, he or she may continue to reserve space until the end of the reservation period and may not renew same unless he or she has acquired or given notice of intent to acquire another boat within a reasonable time. (Ord. 77-01 (part), 1977; Ord. 79-03 § 4 (part), 1979; Ord. 80-04 § 4 (part), 1980; Ord. 93-12 (part), 1993; Ord. 96-9 § 1, 1996; Ord. 2002-05, 2001; Ord. 09-03, 2008)

**11.10.325 Mooring facilities use fee (daily/seasonal).** A. No boat shall remain moored at the docks, bulkhead, or port or other public-owned waterfront structures for longer than four hours unless permission is granted by the harbor master. The seasonal rate is only applicable for vessels under 60 feet; all other seasonal rates have been eliminated. Boat owners utilizing boat harbor mooring facilities for periods in excess of four consecutive hours shall be required to pay a Mooring Facilities Use Fee as follows:

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King Cove North Boat Harbor

<u>VESSEL</u>	<u>RATES PER DAY</u>	<u>SEASONAL (3 Months)</u>
32' to 46'	\$20.25 per day	\$506.25 seasonal
47' to 60'	\$27.00 per day	\$675.00 seasonal
61' to 75'	\$33.75 per day	
76' to 90'	\$40.50 per day	
91' to 105'	\$54.00 per day	
106' to 125'	\$67.50 per day	
126' to 150'	\$81.00 per day	
151' to 175'	\$94.50 per day	
176' to 200'	\$114.75 per day	
201' to 225'	\$121.50 per day	
226' to 250'	\$128.25 per day	
251' to 275'	\$135.00 per day	
276' to 300'	\$148.50 per day	
301' to 325'	\$162.00 per day	
326' to 350'	\$175.50 per day	
351' to 375'	\$189.00 per day	
376' to 400'	\$202.50 per day	

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<u>VESSEL</u>	<u>RATES PER DAY</u>
61' to 75'	\$40.50 per day
76' to 90'	\$47.25 per day
91' to 105'	\$60.75 per day
106' to 125'	\$74.25 per day
126' to 150'	\$87.75 per day
151' and over	\$101.25 per day

B. Vessels may use the semi-annual and annual rate in either harbor if two conditions are met at the time of the moorage reservation:

1. the vessel does not owe the city any harbor fees, i.e. has a zero balance; and
2. the rate amount is pre-paid.

C. All boats connected to harbor uplands and floats desiring plug-in electricity will be charged a daily use fee of five dollars (\$5.00).

D. The harbormaster is granted full responsibility for assigning and recording electric plug-ins, monitoring the service, and charging and recording all appropriate electricity fees. The harbormaster will immediately disconnect any unauthorized use of electricity on the floats/docks.

E. The cost of kWh of electricity for all vessels moored in both harbors will be an additional \$.03/kWh over the cost that the harbor department purchases electricity from the city's electrical utility.

(Ord. 77-01 (part), 1977; Ord. 78-04 §§ 1, 2, 1979; Ord. 79-03 § 4 (part), 1979; Ord. 80-04 § 4 (part), 1980; Ord. 91-6 § 4 (part), 1991; AM, 3/27/92; Ord. 93-2 § 2, 1992; Ord. 93-12 (part) 1993; Ord. 95-17 § 2, 1995; Ord. 96-9 § 2, 1996; Ord. 98-11, § 2 (part), 1998; Ord. 2001-07, 2001; Ord. 2002-05, 2001; Ord. 09-03, 2008; Ord. 09-06 § 2, 2009)

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**11.10.330 Gridiron, Crab pots; Skiffs; Garbage; Forklift.** A. Boat owners using the gridiron facilities shall be charged as follows:

<u>RATES</u>	<u>PER 24 HOUR PERIOD OR FRACTION THEREOF</u>	<u>MAXIMUM</u>
20' to 35'	\$13.50 per day	72 hours
36' to 50'	\$33.75 per day	72 hours
51' to 74'	\$67.50 per day	72 hours
75' and over	\$135.00 per day	72 hours

B. 1. There shall be a charge of two dollars and two cents (\$2.02) for each crab pot over the dock and a storage fee of three dollars (\$3.00) per year or twenty five cents (\$.25) per month for each crab pot with the exception of the stacker pots which will be charged at 25% of the regular rate or seventy five cents (\$.75) per pot for storage.

2. It is no longer permissible to load/unload pots off the city wooden dock. The harbormaster or designee shall be responsible for submitting a monthly summary report to the city administration that documents the number of crab pots transported over any/all city harbor/port facilities.

C. Skiffs stored on boat harbor lands will be identified and registered by the owners with the harbormaster and assessed an annual storage fee of fifty dollars (\$50.00). Any skiffs not properly registered will be removed from boat harbor lands.

D. The city's forklift shall be subject to a charge of sixty-seven dollars and fifty cents (\$67.50) per hour. Charges for less than an hour will be at the discretion of the harbormaster or his or her designee. Only qualified city personnel may operate the forklift. (Ord. 77-01 (part), 1977; Ord. 79-01 (part), 1979; Ord. 79-03 § 4 (part), 1979; Ord. 82-11 § 4, 1982; Ord. 83-02 § 4, 1982; Ord. 91-1 § 4 (part), 1991; AM, 3/27/92; Ord. 93-12 (part), 1993; Ord. 95-17 § 3, 1995; Ord. 96-9 § 3, 1996; Ord. 2003-01, 2002; Ord. 09-03, 2008)

**11.10.335 Harbormaster service fees.** The harbormaster is granted the power and authority to, from time to time, but without any obligation or liability on his or her part or that of the city for his or her failure to do so, replace defective mooring lines, pump boats which are in a dangerous condition for lack of pumping and move any boat from fire or other hazard or for the protection of other boats therefrom. Whenever the harbormaster performs any of the acts hereinabove authorized, after having given notice to the boat owner at the registered address of the immediate need therefor, or having attempted to give such notice, the boat owner thereof is required to pay the city the following fees:

1. **Replacing or securing with additional mooring lines:** ten dollars (\$10.00), plus the cost of any materials used;

2. **Emergency pumping:** Fifty dollars (\$50.00) per hour, plus cost of any materials used;

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3. **Moving:** One dollar (\$1.00) per foot of length of boat; minimum fee shall be twenty dollars (\$20.00), plus the cost of any materials used;

4. **Raising of boats:** Raising of boats up to 20', one hundred fifty dollars (\$150.00), plus cost of any material used, and over 20', two hundred fifty dollars (\$250.00), plus cost of any material used, and all costs of professional services as required. (Ord. 77-01 (part), 1977; Ord. 79-03 § 4 (part), 1979; Ord. 09-03, 2008)

**11.10.340 Warehouse locker use fees.** Persons who hold annual moorage permits may lease lockers in the city warehouse provided locker space is available. The harbormaster is granted the authority to assign lockers to annual moorage permit holders on a first come first served basis. Yearly rental rates shall be seven hundred twelve dollars and eighty cents (\$712.80). (Ord. 79-01 (part), 1979; Ord. 79-03 § 4 (part), 1979; Ord. 93-12 (part) 1993; Ord. 96-9 § 4, 1996; Ord. 09-03, 2008)

**11.10.345 Boat haul-out area, travelift fees.** A. A fee will be charged for all boats utilizing the travelift and boat haul-out area. The fee will be seventeen dollars and fifty-five cents (\$17.55) per linear foot per boat for one complete haul-out trip (i.e., out and into water) and up to three days for temporary storage/repair. Inspection lifts for the sole purpose of examining and/or assessing needed repairs, at the discretion of the harbormaster (and generally less than two hours' time) shall be six dollars fifty cents (\$6.50) per linear foot for one complete haul-out trip.

B. After the three day grace period for repairs, a fee of 20 percent of the total haul-out charge will be charged for each week, or any part thereof, that the vessel is stored in this area. (Ord. 90-04 § 4 (part), 1990; Ord. 91-1 § 4 (part), 1991; Ord. 93-12 (part) 1993; Ord. 95-17 § 4, 1995; Ord. 09-03, 2008)

**11.10.350 Payments.** A. All charges herein provided shall be paid to the order of the City of King Cove, in advance, at the city building. A 1-1/2 percent monthly finance charge shall be assessed on all unpaid harbor fees.

B. Any boat owner who fails to pay the moorage and service fees as herein provided, at the time and place when such fees are due and payable, and for a period of 30 days thereafter, shall be subject to an action by the city for the recovery of such fees and charges. The harbormaster shall submit a report to the city

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council each calendar quarter of all such delinquencies, and such report shall include the description of the boat, the name and address of its owner, and the type and value of such fees as are delinquent. The council may refer delinquencies to the city attorney for appropriate action to recover fees owed to the city.

C. Any boat owner who fails to pay the moorage and service fees as herein provided will not have any priority for reserved mooring space. The harbormaster shall have the authority to relocate any such vessels within the harbor.

D. The harbormaster may impound any boat for the failure of the boat owner to pay any fees or charges as set in this article when said fees remain unpaid for a period of 30 days.

E. 1. The city shall have a lien for any unpaid mooring reservation fees, mooring facilities use fees, other harbor facilities fees, and harbormaster service fees under 46 U.S.C. § 971. Should any such fees be unpaid or unsecured for 30 days after due, the city may file a complaint IN REM in the federal district court in the district in which the boat may be found. If it appears that such boat will leave the federal district in which the city is located, the libel IN REM may be filed prior to the expiration of the 30 day period.

2. The city reserves its rights to pursue any applicable lien created by Alaska Statutes including specifically AS 34.35.175 and AS 34.35.220, or any amendments thereto.

3. All liens created shall not be exclusive remedies. A proceeding to foreclose any lien or suit thereon by the city shall not preclude any other remedy, including impoundment as above, at law or in equity. The procedure for foreclosure or suit thereon of any lien shall be as set out in applicable state or federal law. (Ord. 77-01 (part), 1977; Ord. 79-03 § 4 (part), 1979; Ord. 91-1 § 4 (part), 1991; Ord. 91-6 § 4 (part), 1991)

### **Article 4. Abatement of Nuisances; Impoundment; Penalties**

**11.10.410 Nuisances.** For the purpose of this title and in the interest of the greatest use of the boat harbor facilities by the general public, boats in the boat harbor which are derelicts, unfit or unseaworthy, or which are maintained in such manner as to make them liable to sinking for lack of being pumped or other maintenance, or which are maintained in a manner so as to constitute a fire hazard to the harbor facilities or to boats lawfully occupying the same for any period of 30 or more days after the effective date of the ordinance codified herein, and sunken

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boats and boats in imminence of sinking, are declared to be nuisances and subject to abatement and removal from the harbor facilities by the city, or its agents, without liability on the city for any damage done by virtue of the removal. Boats removed from the boat harbor under the provisions of this section shall be disposed of as provided in this part. (Ord. 77-01 (part), 1977)

**11.10.415 Abatement of nuisances. A. Vessels may be impounded if:**

1. The vessel is within the harbor including its dry storage areas, and is a derelict or a nuisance as defined in this title;

2. The fees for the vessel (on which the city has a lien) are sixty (60) days delinquent;

3. The vessel is located in the harbor including its dry storage areas, and is in violation of this title, or a state or federal law; or

4. The owner, operators, master or managing agent is not aboard the vessel and the vessel is not properly identified by a name and/or number.

**B. Notice to owner:**

1. **Contents.** Prior to impounding any vessel, the harbormaster shall prepare a written notice of intent to impound the vessel. This notice shall contain:

a. The name and/or official number or state registration number of the vessel;

b. The name and address, if known, of the owner, operator, master or managing agent, and the location of the vessel;

c. The basis or reason for impoundment; and

d. The reserved moorage space, if any, which will be forfeited if the vessel is impounded.

2. **Distribution.** The notice of intent to impound shall be at least twenty-one (21) days before impoundment. The notice shall be:

a. Mailed by certified mail, return receipt requested, to the last known owner, master or managing agent of the vessel at his or her last known address; and

b. Posted on the vessel, in the harbormaster's office, and in the United States Post Office in King Cove.

**C. Hearing.**

1. **Demand for hearing.** The owner, master or managing agent or any other person in lawful possession of a vessel proposed for impoundment has the right to a pre-impoundment administrative hearing to determine whether there is cause to impound the vessel. Any such person desiring a hearing shall file a written demand with the city clerk within ten (10) days after the mailing and posting of the notice of intent to impound.

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2. **Hearing procedure.** The hearing shall be conducted within seventy-two (72) hours of receipt of a written demand therefore from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and city holidays are to be excluded from the calculation of the seventy-two (72) hour period. The hearing officer shall be designated by the city manager and shall be someone other than the harbormaster. The sole issue before the hearing officer shall be whether there is cause to impound the vessel in question. "Cause to Impound" shall mean such a state of facts as would lead a reasonable person exercising ordinary prudence to believe there are grounds for impounding the vessel. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall have the burden of establishing that he or she has the right to possession of the vessel. The harbormaster shall have the burden of establishing that there is cause to impound the vessel. Failure of the owner, operator, master or managing agent to request or attend a scheduled impoundment hearing shall be deemed a waiver of the right to such a hearing and consent to the impoundment action.

D. **Decision.** At the conclusion of the hearing, the hearing officer shall prepare a written decision. The hearing officer shall only determine that as to the vessel in question, either that there is cause to impound the vessel or that there is no such cause. A copy of the decision shall be provided to the person demanding the hearing, and the owner of the vessel, if the owner is not the person requesting the hearing. The hearing officer's decision shall in no way affect any criminal proceeding in connection with the impoundment in question, and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final.

E. **Impoundment.** In the event the hearing officer determines there is cause to impound the vessel, the harbormaster may proceed immediately with the impoundment of the vessel. The harbormaster may impound the vessel by immobilizing it, removing it or having it removed from the water and placing it in public or commercial storage, with all expenses of haul out and storage and an impound fee to be borne by the owner of such vessel. At any time prior to the sale of the vessel, the owner, operator, master or managing agent, or person in lawful possession of the vessel may redeem the vessel by a cash payment of all fees against the vessel, including interest and costs.

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**F. Notice of sale.**

1. **Contents.** Prior to the sale of any impounded vessel, the harbormaster shall prepare a written notice of sale of the vessel. The notice shall contain:

- a. The name and/or official number or state registration number of the vessel;
- b. The date, time and place of the sale; and
- c. The fees, interest and costs due against the vessel and terms of sale, provided by KC (NEED CITY CODE REFERENCE) which shall govern the sale.

2. **Distribution.** The notice of sale shall be at least thirty (30) days before the sale, and shall be;

- a. Mailed by certified mail, return receipt requested, to the last known owner, master or managing agent of the vessel at his or her last known address;
- b. Posted on the vessel, in the harbormaster's office, and in the United State Post Office in King Cove; and
- c. Published in a newspaper of general circulation in Anchorage at least once.

**G. Sale.**

1. **Bids.** The minimum acceptable bid shall be a sum equal to the fees against the vessel, including interest and costs to be paid in cash at the time of sale or within twenty-four (24) hours thereafter. The proceeds of such sale shall be first applied to the cost of the sale, then to interest, then to fees accrued and the balance, if any, shall be held in trust by the city for the owner of the vessel to claim. If such balance is not claimed within two (2) years, the balance shall be forfeited to the city. Upon sale being made, the city shall make and deliver its bill of sale without warranty, conveying the vessel to the buyer. (Ord. 06-05, 2006)

**11.10.420 Impoundment.** In addition to impoundment to abate nuisances under this chapter, the harbormaster may impound any boat:

1. for failure to comply with the registration provisions of § 11.10.215;
2. if left unattended upon any waterway in or about the boat harbor in such a manner as to constitute an obstruction to harbor traffic;
3. if so disabled as to constitute an obstruction to harbor traffic and the boat owner is by reason of physical injury or other incapacity unable to provide for its custody or removal;
4. if moored in a reserved mooring space to which it is not assigned after attempting to contact the boat owner and the boat owner assigned the reserved mooring space; or

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5. if moored in a loading area for a period longer than the period posted. (Ord. 77-01 (part), 1977)

**11.10.425 Impoundment procedure and disposition.**

A. Any boat impounded by the harbormaster shall be secured by chaining or otherwise mooring it to a work float or other suitable object or by removing it from the water and placing it in the city or commercial land storage.

B. The provisions of § 11.10.415 relating to impoundment, removal, sale or other disposition, apply to this part. (Ord. 77-01 (part), 1977)

**11.10.430 Penalties.** In addition to the provisions for impoundment, any person who violates any of the provisions of this chapter is guilty of a misdemeanor and any person convicted of violating §§ 11.10.270-11.10.280 of this chapter shall be fined not more than five hundred dollars (\$500.00) together with the costs of prosecution thereof, or imprisonment for not more than 30 days and, in addition thereto, his or her privilege of using the small boat harbor facilities may be suspended for not more than one year. (Ord. 77-01 (part), 1977)

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**Chapter 11.15 -- Port of King Cove**

**Sections:**

- 11.15.010 Port terminal established.**
- 11.15.015 Terminal tariff.**
- 11.15.020 Harbormaster - Duties and authority.**
- 11.15.025 Port fund.**

**11.15.010 Port terminal established.** The city shall maintain and operate a terminal for the receiving, handling, storage, and delivery of cargo and passengers to and from water carriers. The terminal shall be known as the Port of King Cove or King Cove Cargo Terminals. (Ord. 94-3 § 1 (part), 1994)

**11.15.015 Terminal tariff.** A. The use of the Port of King Cove shall be governed by the terminal tariff of the Port of King Cove as filed with the Federal Maritime Commission. The terminal tariff may be adopted and revised from time to time by resolution or ordinance of the city. Any type of inbound wharfage fuel shall be charged \$.025/gallon.

B. No person shall violate any provision of the Port of King Cove terminal tariff as filed with the Federal Maritime Commission. Any violations shall be punished under § 1.15.015 of this code of ordinances. (Ord. 94-3 § 1 (part), 1994; Ord. 2001-02, 2001; Ord. 2001-03, 2001; Ord. 2001-07, 2001; Ord. 2002-05, 2001; Ord. 09-03, 2008; Ord. 09-06 § 2, 2009)

**11.15.020 Harbormaster-Duties and authority.** A. The harbormaster of the city, under the direction of the personnel director, shall supervise and manage all Port of King Cove facilities.

B. The harbormaster shall enforce all of the provisions of this title, the terminal tariff, and any rules and regulations duly adopted hereunder. In the performance of such duties the harbormaster shall have all of the powers of a police officer of the city.

C. In connection with official duties, the harbormaster shall have the authority to board any boat within the Port of King Cove.

D. The harbormaster may, under the direction of the mayor, post signs and notices that will inform the public at large and all vessels of authorized and prohibited uses of the Port of King Cove. (Ord. 94-3 § 1 (part), 1994)

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**11.15.025 Port fund.** There is established a separate fund entitled "Port Fund". All fees received from the operation of the Port of King Cove shall be deposited to this fund and used for such costs of operation, maintenance, and supervision of the Port of King Cove. (Ord. 94-3 § 1 (part), 1994)

**Chapter 11.20 -- Fuel Facility**

**Sections:**

- 11.20.010 Fuel facility established.
- 11.20.020 Operation and maintenance.
- 11.20.030 Purpose; customer services.
- 11.20.040 Rates and profit.
- 11.20.050 Accounting and disbursement of profits.
- 11.20.060 Fuel Facility Board; appointment; terms of office.
- 11.20.070 Fuel Facility Board; powers and duties.
- 11.20.080 Rules and regulations.

**11.20.010 Fuel facility established.** There shall be a fuel facility owned and operated by the city, governed as provided in this chapter. (Ord. 05-07, 2006)

**11.20.020 Operation and maintenance.** The fuel facility shall be operated and maintained by the City of King Cove under the direction of the mayor or his or her designee. (Ord. 05-07, 2006)

**11.20.030 Purpose; customer services.** A. The purpose of the fuel facility is to sell fuel to customers and to sell such other products or services that may be authorized by the city from time to time.

B. Credit shall be extended to fuel facility customers only in compliance with written credit criteria approved by rule or regulation approved pursuant to KCC 11.20.080. Nothing in this section requires the city to approve credit criteria or to authorize the sale of products or services on credit.

C. The fuel facility shall refuse to sell products and services, except on a cash or other immediate payment basis, to any person who is not current on the payment of monetary obligations due to the city or who fails to meet any creditworthiness criteria established by the city. (Ord. 05-07, 2006)

**11.20.040 Rates and profit.** A. The fuel facility is intended to recover all costs of sales and operations and provide a reasonable profit to the city. Pricing for sales of fuel and other products and services should be established at levels sufficient to provide a reasonable profit and remain competitive with other providers of similar products and services in the community.

B. The rates for products and services sold by the fuel facility shall be set in accordance with rules or regulations adopted pursuant to KCC 11.20.080.

C. Per A.S. 44.62.310(C)(3), pricing strategies can be discussed in executive session. (Ord. 05-07, 2006)

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**11.20.050 Accounting and disbursement of profits.** A. Unless otherwise provided by ordinance, the fuel facility shall be established as a separate enterprise fund within the city's harbor and port self revenue fund. All expenses and revenues of the fuel facility will be accounted for within this fund.

B. All profits of the fuel facility fund shall be disbursed only pursuant to appropriations approved by ordinance. (Ord. 05-07, 2006)

**11.20.060 Fuel Facility Board; appointment; terms of office.**

There is established a fuel facility board composed of the entire and sitting city council. (Ord. 05-07, 2006)

**11.20.070 Fuel Facility Board; powers and duties.** A. The fuel facility board shall consult with and advise the mayor concerning the administration of the facility and any other matters that affect it.

B. The mayor shall consult with the board concerning rates to be charged for products and services sold by the fuel facility and concerning the annual budget for the facility.

C. A majority of the members of the fuel facility board shall be a quorum for the transaction of business. The mayor or a member of the city staff designated by the mayor shall be present at all board meetings.

D. The fuel facility board shall conduct its business in accordance with the requirements of the open meetings law.

E. Minutes shall be kept of all fuel facility board meetings. The minutes shall be maintained in the office of the city clerk. (Ord. 05-07, 2006)

**11.20.080 Rules and regulations.** A. After consultation with the fuel facility board, the mayor may propose rules or regulations for the implementation of this chapter.

B. The proposed rules or regulations shall be submitted to the city council, which may approve or disapprove the proposed rules, in whole or in part. If the council does not act to disapprove the proposal within 30 days after the mayor formally presents them to the council, the proposed rules or regulations shall be deemed approved and shall then take effect. If the council approves the rules or regulations with or without amendments, they shall take effect on the day following such approval.

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C. Approved rules and regulations, including any approved amendments, shall be posted as provided in KCC 2.15.265, and shall always be available for public inspection at the office of the city clerk.

D. The city council may, by resolution or ordinance, repeal or amend any previously approved rule or regulation. (Ord. 05-07, 2006)

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