



PORT OF NOME TARIFF RULES AND REGULATIONS

TARIFF NO. 5

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CHAPTER 1 GENERAL PROVISIONS

01.010 Legal Effect:

(a) These tariff regulations, published and filed with the Federal Maritime Commission, constitute notice to all persons and entities that these rules, regulations, rates and charges apply to all traffic and activities at the Port of Nome without further specific notice or quotation or other arrangement.

(b) In addition to this Port and Harbor Tariff, the public, shippers, consignees and carriers using the Port of Nome should consult and be aware that the City of Nome Code of Ordinances, including, but not limited to, Chapter 10 (Health, Safety & Welfare), Chapter 15 (Public Utilities & Services), and Chapter 12 (Ports & Harbors) all as amended apply and govern where not specifically provided otherwise in this tariff. Also, the City reserves the right to adopt specific tariffs governing particular marine-related facilities operated by the Port of Nome.

(c) The rules, regulations, rates and charges described in this tariff shall be effective immediately upon electronic filing with the Federal Maritime Commission. For the convenience of port users this tariff is posted on the Internet at www.nomealaska.org/port.htm.

01.020 Port Use Constitutes Tariff Acceptance:

USERS ARE HEREBY ADVISED THAT ANY AND ALL USES OF THE PORT OF NOME CONSTITUTE ACCEPTANCE OF ALL RESPONSIBILITY, LIABILITY AND WAIVERS CONTAINED IN THESE TARIFF REGULATIONS. Any person, entity or vessel enjoying the beneficial use of the premises, facilities, equipment or services of the Port of Nome is deemed to have thereby accepted all of the terms, conditions, rates, liabilities and indemnifications of these tariff regulations, and is deemed to have thereby agreed to all limitations and waivers contained in these tariff regulations.

01.030 Notice:

All legal notices, inquiries, requests for information and applications to the Port of Nome shall be addressed and delivered to:

**PORT DIRECTOR
CITY OF NOME
P.O. BOX 281
NOME, AK 99762
port@ci.nome.ak.us**

01.040 Hold Harmless and Indemnification:

Each and every vessel, permittee, carrier, shipper, agent and other user of the Port of Nome hereby agrees to hold harmless and to indemnify the City of Nome, its employees and agents from and against any and all claims, liabilities and damages, including actual attorney fees, arising from or caused by an act or omission of the same port user, its employees, agents or assigns.

Rates in this Tariff do NOT include insurance of any kind. All companies and persons engaged in the business of trucking, storing, and/or shipping, fuel, general cargo and gravel, and who operate on Port of Nome property shall have on file with the Port a certificate of liability insurance of up to \$1,000,000.00 (1 Million) naming the Port as a certificate holder before they are allowed to work within the facility.

01.050 Facility Use and Bonding:

(a) Each and every permittee, carrier, shipper, agent or other port user covenants and agrees to maintain in good condition and safeguard all structures and improvements in the Port of Nome. The Port Director may at any time order any port user to post a bond or create a cash escrow account protecting the Port of Nome from and against any and all liability and damage caused by or resulting from an act or omission of that port user.

(b) All permittees, carriers, shippers, agents, or other users of the Port of Nome hereby covenant and agree to repair and restore any and all damage that port user may cause to the submerged lands, causeway, revetment, marine headers or other facilities of the Port of Nome, reasonable wear and tear excepted.

01.060 Compliance with Law:

(a) All persons entering or using the Port of Nome agree to comply with all rules, regulations, ordinances, statutes and laws of every governmental entity applicable to the activities and circumstances.

(b) Open containers and/or consumption of alcohol will not be permitted on any parts of the Port of Nome premises. Persons found in violation of this rule will be asked to leave the premises immediately, will be reported to the local and State authorities, and may be denied future access and use of the Port and its facilities. Consumption of alcohol onboard a vessel that is underway will be reported to the United States Coast Guard for necessary action.

(c) Any person whose conduct while on Port of Nome property is in violation of law or this tariff may, in addition to any fine imposed by operation of law, be refused further access to the Port. Any vessel located within the Port of Nome upon which any conduct occurs that is in violation of law or this tariff, may be refused future access to the Port.

(d) Any person or vessel or vessel owner or operator who violates any provision of this tariff or the rules and regulation of the Port of Nome shall be subject to a civil fine in an amount of \$100 for the first violation, \$200 for the second violation, and \$500 for subsequent violation, plus any surcharge required to be imposed by AS 12.55.039. In cases of continuing violations, each day during which a violation continues shall be considered a separate offense.

(e) Fine amounts shall be added to any invoice for services issued by the Port Director. If an invoice would not otherwise be issued, a fine may be imposed by civil action.

(f) A person who disputes whether a fine has been properly added to an invoice shall have the right to request an informal administrative hearing with the Port Director within thirty (30) days of the date of receipt of the invoice. The Port Director shall schedule the informal administrative hearing within thirty (30) days of receipt of the request for the hearing, and shall issue a written decision regarding the matters discussed at the hearing no later than ten (10) days after the day of the hearing. Any person aggrieved by said written decision may appeal the matter to the Nome City Council no later than thirty (30) days after receipt of said written decision. The Mayor shall outline reasonable procedures for appeals to the Nome City Council. The decision of the Nome City Council shall be final and may be appealed to the Superior Court for the State of Alaska, Second Judicial District.

(g) Any vessel that has incurred an unpaid fine or that is owned or operated by a person who has incurred an unpaid fine may, in the sole discretion of the Port Director be denied use of the Port until such time as the fine has been paid in full.

01.070 Housekeeping and Safety:

(a) All persons entering or using Port of Nome property are required to maintain the same in an orderly manner. If any user of Port of Nome property does not leave areas of the port used by the user in an orderly and clean condition, the Port Director shall order the work necessary to return the area to an orderly and clean condition and the user shall be responsible for all charges for said work.

(b) No smoking shall be allowed on any Port of Nome premises where posted. Safety and warning signs shall be observed and adhered to at all times by all persons within the Port of Nome.

01.080 Waste Oil Handling:

(a) Waste oil in increments of five (5) gallons or less from small vessels (less than 100 feet) will be accepted free of charge when disposed of properly by port users in the specified containment bin located in

the harbor facility.

(b) Waste oil from any source other than small vessels and waste oil from small vessels in quantities greater than five (5) gallons will be accepted by the port for a fee (designated in Section 05.035 of this tariff). Port users shall contact the Port Director to arrange for a place where such waste oil will be accepted.

(c) Any unpermitted disposal or abandoning of waste oil in the Port of Nome will subject the person disposing of or abandoning the waste oil, the vessel from which the waste oil originated, and the owner of the vessel from which the waste oil originated, to the fine established by this tariff. Glycol, solvents or any other non-petroleum based product disposal shall not be permitted.

01.090 Facility Security and Access:

All persons within the Port of Nome must comply with any security signage and barricades defining restricted areas and controlled access points. Specific regulations regarding the handling of cargo and fuel within these areas is outlined in the Port of Nome's USCG approved Facility Security Plan. Pertinent sections of this plan will only be made available to those facility operators handling cargo and fuel.

CHAPTER 2 BERTHING

02.010 Permission Required:

(a) Prior to any vessel mooring, anchoring, or berthing within the Port of Nome, they shall first receive approval for a berth assignment from the Port Director. Written berthing applications must be submitted for all vessels requiring use of the Causeway facility.

(b) All berthing assignments approved by the Port Director shall be granted on a first-in-time basis of receipt of berthing requests, provided however that preferential berthing requests shall be granted in accordance with the procedures described in Section .020 below, and emergency berthing may be granted at any time at the discretion of the Port Director.

(c) Docking permits are available but not required for vessels using the Small Boat Harbor (inner harbor) facility only, provided the Port of Nome is given notification of vessel's initial arrival and a docking permit defining a particular period (weekly, monthly or seasonal) is issued by the Port of Nome for the vessel.

(d) All berthing and docking permits assigned shall apply to only a specific vessel at a specific location (or area) for a specific period of time, and are non-transferable, conditional permits, revocable without notice or claim, except as otherwise provided in these tariff regulations.

02.020 Preferential Berthing:

(a) The Port Director shall review and consider for preferential berthing, for specific dates and times, all written requests received by the Port of Nome based on the date received. Preferential berthing permits shall be based on a 24-hour period constituting one day.

(b) If two or more applicants apply for preferential berthing for the same time and location, the Port Director shall convene an informal telephonic or personal conference with representatives of all conflicting applicants, and shall attempt to obtain a good faith accommodation that minimizes costs or damages to all of the conflicting applicants. If the Port Director is unsuccessful in obtaining a consensus accommodation among conflicting applicants, then the Port Director shall arrange and execute a fair and impartial drawing of lots to determine which conflicting applicant shall receive the preferential berthing reservation.

(c) No holdover rights are derived from the award of preferential berthing. A vessel delayed in arrival to its reserved, preferential berthing, or a vessel choosing to hold over beyond the term of its preferential berthing, shall be accommodated only during the period of its original preferential berthing reservation, and shall be treated as any other application on a first-in-time basis for any holdover berthing time.

02.030 Alteration or Revocation of Berthing Assignments:

The Port Director may, in his or her sole discretion, alter or revoke any and all berthing assignments whenever he or she determines that such an alteration or revocation is necessary to prevent illegal activities, to prevent damage to the Port of Nome, to avoid undue delay in port operations, to avoid unsafe congestion in the port, to avoid grossly excessive operational costs to the Port of Nome or to other users of the Port of Nome, to prevent further accumulation of charges on an already outstanding account, or to accommodate emergencies, the public health, safety and welfare.

02.040 Reassignment or Return to Berth:

Whenever the revocation of a berthing assignment is not caused by culpable acts or omissions of any person associated with the permittee of the berthed vessel, the Port Director shall make all reasonable effort to assign another berth to the vessel if a satisfactory alternative is available. Whenever the revocation of a berthing assignment is not caused by culpable acts or omissions of any person associated with the permittee of the berthed vessel, the Port Director shall make all reasonable effort to return the vessel to the original berth as soon as possible, provided however that no decision to return the vessel to its original berth shall result in interference with other berthing reservations existing at the time of the revocation.

02.050 Orders of Alteration, Revocation or Reassignment of Berthing:

Any and all orders from the Port Director demanding the alteration, revocation or reassignment of berthing arrangements for a vessel shall be delivered to the vessel in writing, or to the permittee if the vessel is not in the Port of Nome, together with a summary of findings of fact and conclusions demonstrating that the Order is a reasoned decision in the best interests of public health, public safety and public welfare. The vessel shall comply fully with the Order no later than four hours after the time of receipt of the Order, provided however that the Port Director can require compliance within a shorter time if an emergency so requires.

02.060 Securing Vessels:

(a) All vessels berthing in the Port of Nome shall be moored, anchored and secured in a safe manner according to generally accepted practices of seamanship. All vessels lying at a wharf, pier, causeway, revetment, dock, floats, other improvement or alongside another vessel shall be secured with head and stern lines to mooring bits, bollards or cleats. Any securing of lines to scupper holes, tires, chains or ladders, and any cross-tying on the harbor floats is not permitted. All methods of securing a vessel and all rigging of a vessel in the Port of Nome shall be subject to inspection and approval by the Port Director at any time. Orders of the Port Director to change or improve vessel security or rigging shall be executed by the permittee immediately. Each vessel owner or operator is responsible for checking and re-securing all lines and rigging pertaining to their vessel. Failure to comply with this regulation may result in the imposition of the fines set forth in Section 1.060 of this tariff against the person violating this provision, the owner and operator of the improperly secured vessel, and the improperly secured vessel, all of whom shall be jointly and severally responsible for payment of all fines assessed. In addition to the fine assessed, the vessel, vessel owner, and vessel operator may be denied use of Port facilities.

(b) Every vessel secured to a structure, or lying alongside another vessel berthed at a structure within the Port of Nome shall, from sunset to sunrise, be equipped with seaworthy gangways, and seaworthy man-ropes in a manner subject to inspection and approval by the Port Director at any time. Every gangway shall be brightly illuminated between sunset and sunrise, and shall be monitored by the vessel watch. Any vessel over 60 feet in length moored or anchored within the Port of Nome shall be sufficiently illuminated between sunset and sunrise so as to not compromise navigational safety.

(c) All vessels moored in the Port of Nome shall always and continuously, **without fail**, maintain on board the vessel such crew members as are necessary to care for the vessel and to move the vessel immediately on emergency order of the Port Director, provided however that skiffs and other small fishing craft may be excepted from this requirement upon the approval of the Port Director of an alternative method of ensuring a capability for relocation of the vessel without delay in the event of an emergency.

02.070 Floating Dock:

The floating dock is provided for vessels that are 39' and under in length. All docking on the floating dock is on a first come, first served, basis as space permits. Vessels shall be allowed to raft to any vessel tied

to the floating dock provided that this does not cause a safety or navigation hazard. No one will untie and/or move a rafted vessel without first making a reasonable attempt to locate the vessels owner or operator. When rafted vessels are moved they will be securely re-tied. The floats and ramp area shall not be used for storage of any kind and shall be kept clean and tidy of all gear, supplies and debris by its users.

CHAPTER 3

CARGO HANDLING

03.010 Permission Required:

(a) All movement and placement of cargo within the defined cargo handling areas in the Port of Nome shall occur only in compliance with the prior approval of the Port Director. No person may place or deposit cargo or other property at any location within the cargo handling areas in the Port of Nome without first obtaining this approval from the Port Director. Cargo and other property shall be off-loaded from or loaded to vessels only at specific locations as designated by the Port Director. The Port Director may establish a time by which cargo must be removed from the port cargo handling area. Failing to comply with this regulation may result in the imposition of the fines set forth in Section 1.060 of this tariff against the person violating this provision, the owner and operator of the vessel, and the vessel, all of whom shall be jointly and severally responsible for payment of all fines assessed. In addition to the fine assessed, the vessel, vessel owner and vessel operator may be denied use of Port facilities.

(b) Fire lanes and a strip of land extending twenty (20) feet uplands from all revetments shall remain clear of any resting cargo at all times unless special arrangements are made with the Port Director allowing for the temporary placement of cargo. Unauthorized cargo will be removed by the Port of Nome and all associated charges will be the responsibility of the person that deposited the unauthorized cargo, including any fines imposed pursuant to Section 1.060 of this tariff.

(c) The dock-side staging of rock, sand and/or gravel products must be made by special arrangement with the Port Director at least 72 hours prior to vessel arrival at the location determined by the Port Director. Contractors will be provided with specific written stipulations for loading/unloading these materials within the Port of Nome prior to the start of each season's operations. Staging area and dock facility must be returned to its original condition by the port user within 24 hours of vessel departure. Any damage to facility or significant material loss overboard must be reported to the Port Director immediately.

(d) Over-side cargo being discharged or loaded between vessels when one vessel is berthed at a Port of Nome facility shall be charged exactly one-half (1/2) the typical wharfage rate for that cargo. Manifest requirements and all other rules of cargo handling shall apply in these circumstances.

(e) All cargo containers, their contents, flats and loose stow is the full responsibility of the carrier or consignee while stored anywhere on Port property. No cargo security will be provided by the Port of Nome.

03.020 Manifests and Cargo Information:

(a) Any approved cargo handling permittee shall furnish to the Port Director a complete copy of the manifest of the vessel, including names of consignees or consignors, a detailed description of all cargo to be loaded or discharged, the weights or measurements of all cargo to be loaded or discharged at the Port of Nome, and such other information as the Port Director may require. The manifest must also designate the basis, weight or measurement on which the ocean cargo was assessed. Manifests shall be provided prior to actual unloading of a vessel and within 48 hours after loading a vessel, except on special arrangement with the Port Director. Failure to supply this information may result in the imposition of the fines set forth in Section 1.060 of this tariff against the person violating this provision, the owner and operator of the vessel, and the vessel, all of whom shall be jointly and severally responsible for payment of all fines assessed. In addition to the fine assessed, the vessel, vessel owner and vessel operator, may be denied use of Port facilities.

(b) The Port Director may, at his or her discretion, accept certified freight lists, mates' receipts, or copies of "boat notes" in lieu of the vessel's manifest, provided the alternative sources of information contain all of the information required for the issuance of a cargo handling permit and for the levy of wharfage charges.

03.030 Port Equipment and Services:

(a) The Port of Nome does not, at this time, provide stevedoring, handling, checking or other port services with the exception of monitoring petroleum transfers at the Causeway City dock header and dispensing potable water from both Causeway docks. Any approved cargo handling permittee shall be responsible for arranging privately any and all port services except petroleum transfers and potable water dispensing. Arrangements for conducting petroleum transfers must be made through the Port Director at least 72 hours prior to vessel arrival. Failure to meet this requirement may subject user to delays in product transfer. In the event that user is unprepared to commence transfer after stating readiness, or delays occur that are directly related to the product carrier or recipient, a stand by time of \$125.00 per man per hour will be charged by the Port of Nome for port personnel until operations resume. A list of specific stipulations for conducting transfers will be provided to each petroleum operator prior to the start of each season.

(b) All cargo handling equipment and operators of cargo handling equipment shall be supervised and directed by the cargo handling permittee, and the same permittee shall be fully and primarily responsible and liable to the Port of Nome at all times for any and all claims, losses or damages incurred or suffered by the Port of Nome as a result of acts or omissions in conjunction with or caused by the operation of cargo handling equipment. Any damages to any Port of Nome facility must be reported to the Port Director immediately.

(c) Whenever the Port Director determines that the counting or checking of cargo against appropriate documents by the cargo handling permittee is inadequate to safeguard the accurate levy of wharfage, or the health, safety, economic interests or public welfare of the Port of Nome, the Port Director may retain at the expense of the cargo handling permittee alternative services as the case may require for counting, checking, measuring, grading, scaling, surveying, weighing, marking, segregating, sampling, or supplying accurate, necessary information.

03.040 Right to Refuse Cargo:

(a) The Port of Nome reserves the right to refuse to permit the loading, off-loading or placement of any cargo on Port of Nome premises whenever the Port Director finds in his or her discretion:

- 1) That the shipper, consignee, carrier or cargo handling permittee has failed to make adequate arrangements for receiving, handling, storage or movement of cargo;
- 2) That the cargo contains illegal, perishable and deteriorating, hazardous or otherwise offensive substances;
- 3) That the cargo creates an attractive nuisance or a public nuisance;
- 4) That the cargo value is less than the probable unpaid dockage, wharfage and terminal charges; or,
- 5) That the cargo is not secured in packages or containers suitable for the nature of materials, or suitable for withstanding ordinary handling incidental to transportation from the Port of Nome; or,
- 6) That the shipper, consignee, carrier or cargo handling permittee has delinquent unpaid charges with the Port of Nome.

03.050 Petroleum Products and Hazardous Substances:

(a) Acids, gasolines, fuel oil, volatile fuels, distillates, liquid petroleum products, explosives and hazardous substances ("Petroleum Products and Hazardous Substances") shall be unloaded from or loaded to vessels only at those locations within the Port of Nome designated as suitable for such purposes by the Port Director. The Port Director may from time to time impose safety conditions and such other operating procedures as are necessary for the transferring of any such materials anywhere inside the Port Facility.

(b) Each user of the Port of Nome transferring Petroleum or Hazardous Substance to or from a

vessel, other than for use and/or consumption on the vessel, shall have available and be capable of implementing an Oil Discharge Prevention and Contingency Plan (ODPCP) approved by the Alaska Department of Conservation (ADEC), Environmental Protection Agency (EPA) and United States Coast Guard (USCG) capable of fully containing damages that might otherwise be caused by an explosion, fire, contamination or pollution. No ODPCP relying on equipment or expertise outside the immediate Nome area at the time of the cargo handling shall be acceptable as a plausible plan.

(c) Any person possessing or keeping Petroleum or Hazardous Substances anywhere in the Port of Nome shall do so in full compliance with the terms and conditions of all applicable Federal, State and local laws and regulations, including, the requirements of the agencies responsible for the administration of such laws and regulations including the Maritime Transportation Security Agency (MTSA), the USCG and the ADEC. Additionally, any person possessing or keeping Petroleum or Hazardous Substances anywhere in the Port of Nome shall do so in full compliance with the terms and conditions of this tariff, Port rules, Port regulations, and Port Director safety conditions controlling the use, storage, and disposal of such materials.

(d) Failure to notify the Port of Nome of the possession on a vessel or transferring to or from a vessel of Petroleum or Hazardous Substances in quantities greater than what is reasonably necessary for use and/or consumption on the vessel may result in the immediate confiscation and removal of the Petroleum or Hazardous Substances by the Port of Nome at user's expense, the imposition of the fines set forth in Section 1.060 of this tariff against the person violating this provision, the owner and operator of the vessel containing the improper cargo, and any vessel containing the improper cargo, all of whom shall be jointly and severally responsible for payment of all fines assessed. In addition to the fine assessed, the vessel, vessel owner, and vessel operator may be denied use of Port facilities.

(e) A vessel engaged in the business of supplying Petroleum or Hazardous Substances may haul or lie alongside a vessel or port facility only at locations specifically designated as suitable for the loading or unloading of such cargo, and only for so long as is required to load or discharge the same cargo products unless alternative arrangements are made with the Port Director. All users handling materials described in subsection (a) will comply with the hazardous cargo handling requirements outlined in the Port of Nome's USCG approved Facility Security Plan.

(f) Nothing in these tariff regulations, or discretionary instructions or orders from the Port Director, shall be construed to reduce the standard of care required by the laws and regulations of any governmental entity for the safe and proper handling of Petroleum or Hazardous Substances. In each and every instance, the requirements and regulations of the Port of Nome shall be additional and supplemental to any and all rules, regulations, ordinances, statutes and laws of all other governmental entities.

(g) A red flag shall be displayed as a danger signal at the fore top mast head of the vessel while Petroleum or Hazardous Substances are being transferred in either direction between the vessel and the Port of Nome, or between vessels. Red flags and adequate signage shall be displayed as a danger signal in plain view on and above all cargo in staging, transshipment or laying at rest in the Port of Nome.

(h) When the stand by of emergency services is required by a federal or state agency during the loading or unloading of Petroleum or Hazardous Substances, or when the stand by of emergency services is requested by a shipper, the shipper shall pay for the stand by of emergency services at the rate set in Section 5 of this tariff.

03.060 Risk of Damage:

The approval for cargo handling shall not be construed as the assumption of any responsibility by the Port of Nome for any loss or damage caused by or resulting from the receipt, delivery, handling, movement or loading of cargo, or any damage caused to cargo by third parties or by vessels berthed at the Port of Nome.

03.070 Removal or Transfer of Cargo:

(a) Petroleum or Hazardous Substances, volatile, toxic, explosive or otherwise dangerous cargo may in an emergency be transferred and removed by the Port Director from its staged location to a safe location within or away from the Port of Nome with all expenses and risk of loss or damage chargeable to the

permittee, owner, carrier, shipper, consignee or other claimant as their interests or responsibility may appear.

(b) Cargo remaining in any staging area after the expiration of free time, and cargo shut out at the clearance of a berthed vessel, may be piled or re-piled to make space, transferred to other locations or receptacles within or away from the Port of Nome, or removed to public or private warehouses, by the Port of Nome, with all expenses and risk of loss or damage attributed to the account of the permittee, owner, carrier, shipper, consignee or claimant as their interest and responsibility may appear unless special arrangements have been made with the Port Director.

CHAPTER 4

TERMINAL STORAGE

04.010 Permission Required:

(a) The Port of Nome has designated certain lands and facilities for the storage of cargo prior to short-term staging dockside for purposes of loading aboard any vessel, and following the expiration of short-term free time for off-loaded cargo at the dockside staging area.

(b) No cargo, equipment or other property shall be deposited or stored at any location within the Port of Nome without consent of the Port Director, or acquisition of a specified location. No structure or improvement may be placed on the premises of the Port of Nome without the prior written consent of the Port Director.

(c) The Port Director will designate the location of open storage for cargo on a daily, weekly, monthly, or annual basis. Users of the open storage areas for any duration of time are required to acquire a Storage Use Permit (SUP) from the Port of Nome before placing cargo in open storage. The recipient of a SUP shall comply with the rules and responsibilities outlined in the SUP. Cargo placed in the open storage area without a SUP may be removed from the Port of Nome at the expense of the person who placed the cargo and result in the imposition of the fines set forth in Section 1.060 of this tariff against the person violating this provision. In addition to the fine assessed, persons placing cargo in open storage without the necessary SUP may be denied use of Port facilities.

(d) Persons storing vessels on Port of Nome property shall use commercial grade boat stands for all vessel types except flat bottom boats or skiffs under 20 feet. Twin screw engine vessels are to have boat stands under the bow for storage purposes. Permittees will be responsible for all aspects associated with the movement of vessels to and from storage and for ensuring the stability of the vessel when dry-docked. The Port of Nome accepts no responsibility for the placement and/or movement of these vessels.

04.020 Termination of Storage:

The Port of Nome reserves the right to terminate storage of any and all cargo or equipment at any time following reasonable notice to the terminal storage permittee. If cargo is not removed from the Port of Nome following reasonable notice, the Port Director may cause the cargo to be removed or otherwise disposed at the expense of the terminal storage user.

04.030 Fixtures and Improvements:

(a) The Port Director may negotiate in the public interest prudent terms and conditions for a permit allowing the construction or improvement of terminal storage areas for a period of time not to exceed five years, provided however that no such agreement shall favor one or more users among competitors, and no such agreement shall result in discouraging competition among shippers, carriers, terminal companies or consignees.

(b) A permit including the construction or improvement of terminal storage areas shall not be construed as the conveyance of any interest in real property by the Port of Nome. All structures and improvements to the real property shall remain the property of the Port of Nome upon termination of the terminal storage permit or property lease unless the Port Director orders the permittee to remove the structure or improvement.

(c) Any agreement for the lease of real property, or for the retention of ownership of improvements by the permittee, or for the issuance of a terminal storage permit or agreement for a period in excess of five years, shall be construed as a lease of real property subject to all City of Nome ordinances governing the conveyance of an interest in real property.

CHAPTER 5
SCHEDULE OF CHARGES AND TERMS OF PAYMENT

05.010 Dockage Rates:

(a) All vessels berthing at the Port of Nome shall pay dockage as follows:

1) A vessel permitted to anchor in any Port of Nome anchorage away from the shoreline, that is being loaded or unloaded by lighters, shall pay dockage at the daily rate assessed upon the size of that anchored vessel, commencing when the first lighter of the operation places the first line upon any Port of Nome facility and continuing until the last lighter is free from any Port of Nome facility. Lightering vessels will not be charged dockage during this transfer of cargo.

2) A vessel permitted to beach or run aground in the tidelands or at the mean high tide line away from any Port of Nome facility shall pay dockage at the daily rate assessed upon the size of that vessel or, the port may determine that any vessel beached or grounded more than thirty (30) days in succession can be rescheduled as an idle vessel for purposes of dockage charges.

3) Daily dockage rates for any vessel berthed at the Port of Nome facility shall be based on a 24 hour period constituting one day and will be paid in accordance with the size of the vessel as follows:

- | | |
|---|--------------------|
| (A) Vessels up to 200 ft in length | \$ 1.00/ft per day |
| (B) Vessels over 200 ft in length | \$ 1.50/ft per day |
| (C) Vessels within the breakwaters (outer harbor) | Negotiable |

(D) Vessels 50 ft and over operating inside the inner harbor during the months of June through October shall have the option to apply for a docking permit and pay at the current rate (for that size vessel) as follows:

- 1) Weekly 50% of daily rate
- 2) Monthly 30% of daily rate
- 3) Operating Season (June through October)... 20% of daily rate

(E) Vessels up to 49 ft. in length shall pay a flat rate per vessel as follows:

- 1) Daily \$ 25.00
- 2) Weekly \$ 75.00
- 3) Monthly \$ 175.00
- 4) Operating Season (June through October)... \$ 600.00

(F) Idle vessels home-ported in the inner harbor of the Port of Nome during the “off-season” (November through May) shall pay a flat rate of \$500 for the off-season unless stored in the fenced in boat yard on the Port’s Industrial Pad, in which case the vessel shall pay terminal storage rates for square footage utilized.

(G) Vessels stored in the Port of Nome during the immediately preceding winter months of November through May and that remain in dry-dock through the operating season, shall pay a flat rate of \$125 to store the vessel during the operating season.

4) Monthly dockage rates for any vessel berthed at a Port of Nome facility shall be twenty-five percent (25%) of the daily rate for that vessel, if the vessel remains without interruption at its assigned berth, continuously conducting repairs on board and/or dockside for a minimum period of two months.

5) Vessels permitted to dry-dock above the mean high tide line shall pay the dockage rate applicable to home-ported vessels for the appropriate season.

6) Cruise ships or federal government vessels (over 300 feet) requiring shore-side assistance from the Port of Nome to secure the vessel shall be charged a line handling fee per visit. Notification must be made to the Port Director at least 72 hours prior to vessel arrival that vessel is requiring assistance to moor. Specific arrival and departure times shall be provided to the Port Director at least 12 hours prior to each docking.

7) Vessels moving between different Port of Nome facility docks shall be assessed dockage based on the combined elapsed time at all locations.

8) A single vessel when actively engaged as a tug boat, assisting and made fast outboard a vessel and working cargo, shall be accorded free dockage. A tug boat leaving its tended vessel shall have waived its right to free dockage and will be charged accordingly upon mooring to any other Port of Nome facilities.

9) Any support vessels (i.e. skiffs, launches, rafts, etc.) will be accorded free dockage as long as they remain attached to or part of the main vessel. Support vessels occupying berthing facilities independent of their main vessel will be charged full dockage charges as set forth in Section 5.010 (c).

| | |
|--|--|
| 6) Waste Oil..... | \$1,500.00 per 55 gallon drum (or any portion thereof) |
| 7) Emergency Services Stand By (2 hour limit)..... | \$1500.00 per call |

05.040 Free Time:

Cargo being loaded or off-loaded in accordance with the Port of Nome tariff, may occupy assigned cargo-handling space at the berthing facility free of charges for a period of time not to exceed forty-eight hours prior to the commencement of berthing and seventy-two hours following discharge of the vessel from its berth unless on special arrangement with the Port Director.

05.050 Negotiable Rates:

(a) The Port of Nome reserves the right to enter into negotiated agreements for the use of specific port facilities, storage space, tanks, land or other terminal facilities at rates determined by the Port Commission or Port Director.

(b) The Port of Nome reserves the right to enter into agreements with common carriers, shippers, and agents concerning rates and services, provided that such agreements shall be consistent with existing rules, regulations, statutes and laws of all governmental entities.

05.060 Exemptions:

Pleasure boats and open skiffs less than twenty-five feet in length shall be exempted from dockage fees, except when such vessels are resting idle at cargo handling facilities within the Port of Nome and/or are functioning as a commercial vessel within the facility.

05.070 Terms of Payment:

(a) All dockage, wharfage, terminal storage fees and other charges assessed by the Port of Nome shall be paid at the time of use, except as provided in subsection (b) below.

(b) The Port Director may extend credit to any user of the Port of Nome who establishes a sound financial condition to the satisfaction of the Port Director. User must satisfactorily complete a credit application and provide all information necessary to determine creditworthiness. Charges assessed and levied to any such creditworthy user shall be due and payable within **thirty days (30)** of the date of invoice from the Port of Nome.

(c) The creditworthy status of such a user of the Port of Nome shall terminate immediately and automatically upon failure to pay all amounts due and owing within thirty days of the date of invoicing. In no event shall creditworthy status attach to any user for a period of time in excess of one year without additional and supplemental evidence of continuing creditworthiness satisfactory to the Port Director. During this time of non-creditworthiness, user shall be required to pay all charges in full and in advance for activity conducted within the Port of Nome. Further, users in this delinquent status may be denied access to the Port of Nome facilities and any cargo, gear or vessel within the Port of Nome may be held as security for payment until all unpaid charges are satisfied in full.

(d) No credit shall be extended to any person or entity delinquent in the payment of any amount due and owing to the City of Nome, the Nome Public School District or the Nome Joint Utility System.

05.080 Interest Accrued:

All amounts due and owing to the Port of Nome for dockage, wharfage, terminal storage fees or other charges shall accrue interest at the rate of ten and a half percent (10.5%) per annum. Partial payments shall be applied first to interest and then to the reduction of the principal balance. All costs of collection, including actual reasonable attorney fees, shall be paid by the delinquent user of the Port of Nome.

05.090 Additional Legal Remedies:

Nothing in these tariffs shall be construed as limiting or waiving any and all legal rights and legal

remedies available to the Port of Nome in pursuit of collection of all amounts due and owing to the Port of Nome.

CHAPTER 6 DEFINITIONS

06.010 Berthing:

"Berthing" is the act of anchoring, tying up, mooring, securing, idling, grounding, drydocking, beaching or otherwise laying a water vessel to rest within the Port of Nome.

06.020 Cargo:

"Cargo" shall include all freight, merchandise, supplies, equipment, tools, fuel, and other tangible goods held for shipment or movement within the Port of Nome.

06.030 Cargo Handling Areas:

The "cargo handling areas" shall include all dedicated and usable right of ways, the Nome causeway, the full length of the Snake River revetment improvement including both the east side and along the sandspit for a distance of 50 feet back from that revetment along the uplands.

06.040 Company Gear and Equipment:

"Company Gear and Equipment" includes all equipment, gear and supplies transported to and/or from a vessel which is necessary for cargo handling at the shore-side facility or is being transported by a vessel to another location or vessel for such use, but not considered part of the transporting vessel's (ship's) gear or stores.

06.050 Dockage:

"Dockage" is the charge assessed to a vessel for docking at a wharf, dock, pier, float, revetment or other facility, or for mooring to a vessel so docked at a Port of Nome facility.

06.060 Dock-Side:

"Dock-Side" is the shore-side area of any part of the Port of Nome facilities in which vessels and/or crew may conduct working activities such as loading and unloading.

06.070 Free-Time:

"Free-Time" is the specified period of time (24 hours) during which cargo may occupy an assigned space on port property free of charges immediately prior to the loading or subsequent to the discharge of such cargo on or off a vessel.

06.080 Home-Ported Vessel:

A "home-ported vessel" is a seaworthy vessel laying at rest in the Port of Nome during the immediately preceding winter months of November through May, with no delinquent charges or assessments of taxes, damages, dockage, wharfage or other port charges.

06.090 Inner Harbor:

The "inner harbor" of the Port of Nome is the Snake River and the Bourbon Creek/Dry Creek confluence also known as the turning basin or Small Boat Harbor.

06.100 Over-Side Cargo or Fuel:

"Over-Side" refers to the act of transferring cargo or fuel directly between vessels when one vessel is docked at any Port of Nome facility and the other vessel is moored alongside.

06.110 Over Stow:

"Over Stow" is defined as any cargo placed on the Port premises from common carrier or its agent, which is to be transferred to a different vessel and destined for discharge at another port. Over Stow charges will apply so long as no value has been added to the cargo while awaiting transshipment.

06.120 Port Director:

The "Port Director" is either the director of the Port employed and designated by the Nome Common Council or the designee of that Port Director, such as the Harbormaster, consistent with existing Nome Ordinances governing the Port of Nome.

06.130 Port of Nome:

The "Port of Nome" shall include all tide and submerged lands owned, occupied, managed, leased or administered by the City of Nome within and beyond the municipal boundaries, all parcels of real property contiguous to the mean high tide line of the Bering Sea, the Snake River and its tributaries, and all lands within the jurisdiction of the City of Nome.

06.140 Port of Nome Facilities:

"Port of Nome Facilities" includes all causeway docks, revetments, marine headers, industrial pad, barge ramp, harbor floats, east and west Small Boat Harbor docks, storage areas and tidelands of the outer harbor, Small Boat Harbor and Snake River. Unimproved beaches bordering the Bering Sea, and unimproved submerged lands of the Bering Sea are not included as "facilities".

06.150 Ship's Gear or Stores:

"Ship's Gear & Stores" shall include all equipment, gear and supplies being loaded to and/or from a vessel that is directly related to that vessel's cargo handling ability or part of that vessel's crew necessities.

06.160 Vessel:

A "vessel" is any type of ship, boat, barge or navigable structure suitable for the movement of persons or goods in water.

06.170 Wharfage:

The charge assessed against any cargo placed on any shore-side property and passing over, across, under or through the Port of Nome cargo handling facilities.

06.180 Working Stow:

"Working Stow" is defined as any cargo not destined for the Port of Nome that has to be removed from a vessel and placed temporarily on the dock before being loaded to the same vessel from which it was removed and before any movement of vessel from the dock.

PORT OF NOME

RULES and REGULATIONS

The Nome Port Commission, pursuant to Section 12.10.070(b) of the Code of Ordinances of the City of Nome submits the following regulations pertaining to the operation of terminal and transportation facilities at the Nome Port. The Commission recommends that the rules and regulations be adopted by the City Council.

1.10 Title:

These regulations shall be referred to as the Rules and Regulations of the Port of Nome.

1.11 Scope:

These regulations shall apply to all use and operation of terminal and transportation facilities at the Nome Port and to the use of all real property within the Nome Port.

1.12 Enforcement:

A) These regulations shall be enforced by the Port Director or by the Nome Police Department acting at the request of the Port Director.

B) All orders of the Port Director may be either written or verbal at the discretion of the Port Director.

C) Any order of the Port Director shall be subject to review by the City Council upon written application of any person affected by the order.

2.10 Mooring:

A) No person may make fast a rope or moor to any structure other than a mooring bitt, bollard, or cleat provided for that purpose.

B) Every vessel lying at a dock shall be made fast with head and stern lines in a manner approved by the Port Director.

C) Every vessel lying at a dock shall comply with all orders of the Port Director with respect to its rigging.

D) Every vessel lying alongside a dock or another vessel berthed at a dock shall from sunset until sunrise be equipped with gangways and man-ropes as may be required by the Port Director. Every gangway used for access after dark shall be brightly illuminated and monitored by the vessel.

E) A vessel moored at a dock or to another vessel which is moored at a dock shall always have on board such seamen as are required to care for and move the vessel.

F) No person shall moor, anchor, dock or berth a vessel within the port without first having obtained permission from the Port Director.

G) The City of Nome reserves the right to refuse berthage, moorage or anchorage permits to any vessel which fails to comply with the Rules and Regulations of the Port of Nome.

3.10 Obstruction to Navigation:

A) No vessel may remain in a position which interferes with the mooring or passage of another vessel or creates a danger to persons, vessels or property after the Port Director has ordered it to move.

B) No person may obstruct a basin, channel or wharf so as to interfere with the mooring, passage or activity of a vessel. The Port Director may remove any such obstruction if the owner thereof fails to do so within 24 hours after its discovery by the Port Director.

C) No structure, material or substance that can sink in water or obstruct navigation may be deposited in the bay or on the shore of the bay unless written permission is first obtained from the Port Director.

PORT OF NOME

RULES and REGULATIONS

D) When ballast, stone, coal, bricks, scrap, dirt, rubbish or other loose material or matter that can sink in water is being unloaded from or loaded onto a vessel, a canvas chute or similar contrivance shall be used to prevent spills into the bay.

E) The owner of a vessel which sinks, is grounded or delayed so as to interfere with navigation, obstruct the port, or endanger persons or property shall post warnings on the vessel that can be seen day and night and remove the vessel as soon as possible.

F) No vessel may operate a searchlight or other high intensity light on a vessel not underway in the harbor in such a manner that the safety and privacy of other vessels and vehicle traffic in the harbor area are disturbed, except in an emergency.

4.10 Vessel in Dangerous Condition:

Any vessel that enters or is within the port in a condition which renders it dangerous to persons or property shall be handled according to the orders of the Port Director.

5.10 Departures:

A) The Port Director may order a vessel to depart for the protection of persons or property, to ensure efficient use of the port, or in response to the vessel's failure to remit required charges or tariffs.

B) Upon the order of the Port Director, a vessel shall immediately vacate its berth so that a preferred vessel may berth there.

6.10 Lost, Abandoned or Stolen Vessels or Property:

The Port Director may assume custody of apparently lost, abandoned or stolen vessels or property found within the port. The Port Director shall retain custody of such property until claimed by the rightful owner, the port may require reimbursement for the costs incurred prior to releasing the property or vessel. If the vessel or property is not claimed within thirty (30) days, the Port Director may dispose of the vessel or property either by private sale or a duly notified public auction. The City of Nome may recover the costs incurred by it for recovery and storage of the vessel or property, if any, from the proceeds of the sale.

7.10 Manifest:

The person in control of a vessel shall furnish the Port Director with a complete copy of the manifest showing all cargo loaded or discharged at any port facility. An inbound manifest will be furnished prior to or at the time of the vessel's arrival, and an outbound manifest furnished prior to or at the time of the vessel's departure.

8.10 Payment of Tariff Charges:

A) No vessel may leave the port before payment of all tariff charges incurred by that vessel, and such cargo as was discharged from or loaded upon that vessel has been tendered to the Port Director, or such alternative arrangements as are satisfactory to the port director have been made.

B) An owner, shipper, consignee or agent for cargo discharged from or loaded upon a vessel shall pay the tariff charges incurred with respect to that cargo. Payment shall be made before such cargo leaves the port unless alternative arrangements have been made with the Port Director prior to departure.

C) The Port Director may do all things necessary to prevent the departure of a vessel or its cargo for which tariff charges remain unpaid and for which satisfactory arrangements for payment have not previously been made.

PORT OF NOME

RULES and REGULATIONS

9.10 Motor Vehicles on Docks:

A) No motor vehicle which is dripping gasoline or other petroleum product may enter upon or cross a dock.

B) Motor vehicles may not take or discharge gasoline or petroleum products while on a dock unless authorization has been received from the Port Director. If the gasoline in a motor vehicle is exhausted while the vehicle is on a dock, the vehicle shall be towed from the area at the expense of the owner of the vehicle.

C) No motor vehicle operated by gasoline or other petroleum product may come on a dock except to load or unload freight or passengers or for other bona fide business authorized by the Port Director. If the gasoline in a motor vehicle is exhausted while the vehicle is on a dock, the vehicle shall be towed from the area at the expense of the owner of the vehicle.

D) If an owner or operator of a motor vehicle willfully disregards this chapter, in addition to the other civil and criminal remedies which may be imposed, the Port Director may deny dock access to that person.

E) Subsections A, B, C and D of this section may be waived for specific purposes where, at the discretion of the Port Director, such waiver would not endanger public welfare.

10.10 Loading or Discharging Explosives:

A) No explosive may be transported between a dock and vessel except with the permission of and pursuant to safety conditions imposed by the Port Director. A special permit shall be obtained from the Port Director before any explosives are placed on a dock.

B) No person may transport explosives between a vessel and a dock except between the hours of 6:00 a.m. and 6:00 p.m. unless otherwise authorized first by pre-arrangement with the Port Director. A safety watch shall be maintained at the expense of the cargo owner while explosives are being transported.

C) If the transportation of explosives cannot be completed between the hours of 6:00 a.m. and 6:00 p.m., the person in charge or control of the vessel shall cause such vessel to haul away from the dock and anchor in such part of the port as may be designated by the Port Director until such time as the activity may continue under this section.

D) A red flag shall be displayed as a danger signal at the fore topmast head of the vessel while explosives are being transported between a vessel and the dock.

11.10 Petroleum Products:

A) Acids, coal oil, gasoline, fuel oil, distillate or other liquid petroleum products may be unloaded from or loaded on vessels only at locations within the port designated as suitable for the loading or unloading of petroleum products by the Port Director.

B) A vessel berthed at a location designated as suitable for the loading or unloading of petroleum products or lying alongside another vessel so berthed may load gasoline or distillate only with the approval of the Port Director and only when the vessel is otherwise ready to depart.

C) No person may possess or keep acids, coal oil, gasoline, distillate, other liquid petroleum products or empty drums which previously contained such products on a dock except by special permit issued by the Port Director.

D) No vessel loaded with oil which will flash below 110 degrees F., may haul alongside a vessel, dock or structure without prior permission from the Port Director.

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E) A vessel engaged in the business of supplying fuel oil may haul or lie alongside a vessel or dock at a location designated as suitable for the loading or unloading of petroleum products only for so long as is required to discharge the fuel oil.

F) Each user of a dock shall furnish an absorbent material approved by the Port Director for absorption of waste oil. When saturated, absorbent material shall be removed immediately from the port.

12.10 Fire and Welding Restrictions:

A) Bonfire and open fires are prohibited at the port.

B) No person may bring welding equipment or engage in welding activity on a dock without prior permission from the Port Director. Any person permitted to perform any hot-work or welding activity shall also acquire any and all permits required by state and federal agencies.

13.10 Repair of Vessels:

A) Repairs and maintenance work not done exclusively within the confines of a vessel shall only be made at locations within the port designated as suitable for repair and maintenance work by the Port Director.

B) Repairs to and maintenance of a vessel that can be made exclusively within the confines of a vessel may be made while the vessel is berthed at a docks or lying alongside another vessel so berthed as long as this repair and maintenance activity does not interfere with the cargo handling activities of any other vessel.

14.10 Dangerous Condition of Docks:

A) Upon receiving written notice of a dangerous condition on a dock from the Port Director, the person responsible therefore shall immediately abate that condition or post warnings and barriers around it until such time as it can be abated.

B) No person may interfere with or molest a barrier which bars or obstructs the use of a dock or structure.

15.10 Depositing Property Upon Areas Without Permission Prohibited:

A) No person may deposit cargo, merchandise, equipment, tools, or other property upon any area of the port without the permission of the Port Director.

B) Cargo, merchandise, equipment, tools or other property shall only be unloaded from or loaded on vessels at locations within the port designated as suitable for the loading or unloading of such property by the Port Director.

C) Cargo, merchandise, equipment, tools or other property shall only be deposited or stored at locations within the port designated as suitable for the deposit or storage of such property by the Port Director.

PORT OF NOME

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16.10 Sale or Solicitation of Goods or Services:

No person may sell or solicit the sale of goods or services without a written permit authorized by the City Clerk's Office and approved by the Port Director. The permit may limit sale activity so as to prevent it from interfering with the safe and efficient operation of the port.

17.10 Smoking Prohibited:

No person may smoke within any port area designated by appropriate signs as a **No-Smoking** area by the Port Director.

18.10 Compliance with Law:

A) All persons using terminal and transportation facilities or owning real estate within the port shall comply with the Rules and Regulations of the Port of Nome, all ordinances and regulations of the City of Nome including, but not limited to, all City of Nome Coastal Management regulations; and all applicable laws and regulations of the State of Alaska and the United States governing their activity and ownership.

B) All laws and regulations of the State of Alaska and the United States applicable to the use of terminal and transportation facilities and the ownership of real property within the port are incorporated herein by reference and shall be enforceable by the Port Director in the same manner as the Rules and Regulations of the Port of Nome.

C) If any portion of these regulations is found to be in conflict with federal laws and regulations governing the equipping, operation and licensing of vessels on navigable waters of the United States, then such federal laws and regulations shall prevail, but the remaining sections of these regulations shall not be affected.

19.10 Definitions:

A) "Bay" means the tidal waters within the port.

B) "Port of Nome", "Nome Port", or "port" means all real estate identified as the Port of Nome subdivision, all tidelands which have been transferred to the City of Nome, all real property contiguous to all tidelands which have been transferred to the City of Nome, and all tidal waters within the corporate limits of the City of Nome except those areas which are within the exclusive jurisdiction of either the State of Alaska or the United States together with all improvements located thereon.

C) "Port Director" or "port director" means the director of the port or his designee.

D) "Terminal and transportation facilities", means docks, floats bulkheads, seawalls, landfills, warehouses, staging areas, pipelines and pipeline terminals, transfer spans and aprons, lifting equipment and similar structures together with the necessary equipment and facilities required to accommodate waterborne commerce and shipping located within the Port of Nome.

E) "Vessel" means any type of ship, boat or navigable structure suitable for the transportation of property or persons, and the owner and master thereof.

F) "Tariff charges" means those charges included in the current Port of Nome terminal tariff (Nome Port Facilities Tariff), as well as all rules and regulations for the operation and administration of the Port of Nome.

G) Definitions included in Nome Ordinance 12.40.020 are hereby incorporated by reference.