

1st Reading: February 25, 2019
2nd Reading: March 25, 2019

Presented By:
Port Director

Action Taken:
Yes 6
No 0
Abstain 0

CITY OF NOME, ALASKA

ORDINANCE NO. O-19-02-01

**AN ORDINANCE ADOPTING THE PORT OF NOME TARIFF NO. 15
TO REPLACE ALL EXISTING TARIFFS OF THE PORT OF NOME**

WHEREAS, in Title 12 of the Nome Code of Ordinances, the Nome Common Council reserves the power and authority to approve by ordinance all regulations and tariff rates pertaining in any manner to the administration of the Port of Nome; and,

NOW, THEREFORE, BE IT ORDAINED by the Nome Common Council as follows:

Section 1.

This is a non-Code ordinance.

Section 2.

The Port of Nome Tariff No. 15 attached hereto is hereby adopted in its entirety to replace all existing tariffs of the Port of Nome.

Section 3.

The Port of Nome Tariff No. 15 shall be effective upon adoption and publication.

APPROVED and SIGNED the 25th day of March, 2019.



RICHARD BENEVILLE, Mayor

ATTEST:



CHRISTINE PISCOYA, Deputy Clerk



PORT OF NOME

Port Director's Office

P.O. Box 281

Nome, Alaska 99762

907.443.6619

jbaker@nomealaska.org

AGENDA STATEMENT

Meeting Date: February 25, 2019

From: Joy Baker, Port Director *JLB*

Subject: Adoption of Port of Nome Tariff No. 15 – Ordinance O-19-02-01

BACKGROUND & JUSTIFICATION:

Port of Nome Tariff No. 15 is intended to revise and replace all previous and existing tariffs for the Port of Nome. Changes included in the proposed draft consist of:

- New policy language to address operational changes, namely:
 - Allowing Inner Harbor docking permit holders limited use of Causeway docks; and introducing the option for larger homeported vessels working in close proximity to the Port to obtain Causeway docking permits. (02.010(d) and 05.010(a)3.D)
 - Establishing a requirement for the submission of written launch and haul-out plans for vessels over 50 feet in length. (02.090)
- Rate changes:
 - Expansion of docking permit categories to capture appropriate rates for larger vessels (05.010(a)3.D.1)
 - Creation of Causeway docking permit rates for large homeported vessels (05.010(a)3.D.2)
 - Expansion of idle vessel categories to capture appropriate rates for larger vessels (05.010(b))
- Various other minor language adjustments for housekeeping purposes

The Port Commission held two work sessions to review and discuss various tariff-related issues, which resulted in the attached 7/0 motion from their 17 Jan 2019 Regular Meeting recommending these changes to the Council for consideration and adoption of Port of Nome Tariff No. 15.

Discharge of Firearms:

A specific item of discussion during the tariff review process concerned the discharge of firearms in and around the Port & Harbor facility. Draft language to disallow hunting was put forth in the 20 Dec 2018 Port Commission Work Session, but withdrawn after members of the subsistence hunting community voiced concerns during the meeting. This led to a more coordinated Work Session on 17 Jan 2019, with a larger target audience that included subsistence hunters and representatives, law enforcement and public safety, resulting in an extensive amount of discussion, but no recommended solution.

Although safety was of paramount concern, the importance of being able to harvest marine mammals when available to provide traditional native foods to hunter's families was also highlighted. A pod of Beluga whales was spotted inside the outer harbor basin in Sept 2018, which prompted the question of whether the City allowed hunters to harvest them in this location. At the time, there were vessels and crew at all three Causeway docks so the Harbormaster stated that no firearms were to be discharged.

It was brought to light that a meeting was held back in 2015 between the Mayor, City Manager, Chief of Police and Kawerak. This meeting established an unwritten protocol to notify NPD and the subsistence coordinator at Kawerak if a marine mammal was sighted and a hunter was going to harvest. This agreement was intended to cover the city as a whole, and not just the Port, but only a few participating in the work session were aware of the 2015 meeting and verbal agreement.

As the safety aspects surrounding this issue are not limited to the Port & Harbor facility, the Commission chose to defer to the Council for determining whether more formal engagement with the subsistence community is required for the purpose of defining clear and precise written language regarding the discharge of firearms – whether in the Port Tariff or Nome Code of Ordinances.

Recommendation:

The Nome Common Council approve Ordinance O-19-02-01 adopting Port Tariff No. 15 to replace all existing and previous tariffs of the Port of Nome, including rate increases described above.

Memo

TO: Mayor Richard Beneville & Nome Common Council
FROM: Jim West, Chairman – Nome Port Commission *JW2*
THRU: John K. Handeland – City Manager (Interim)
DATE: 01/25/2019
RE: Concerning the Adoption of Port Tariff No. 15 Rules & Regulations to Replace All Previously Existing Tariffs

The following motion was made by the Nome Port Commission at their Regular Meeting on Thursday, January 17, 2019.

1. Moved by McLarty, second by Sheffield, that the following motion be approved as written:
 - **MOTION:** Recommend the Nome Common Council adopt Port Tariff No. 15 Rules & Regulations to replace all previously existing tariffs, reflecting various revisions of regulation, expanded rate categories for permitted vessels and housekeeping edits.

AT THE ROLL CALL:

Ayes: Rowe, Sheffield, McLarty, Lean, West, Smithhisler, Henderson

Nays:

Abstain:

The motion **CARRIED** unanimously.

Discussion regarding this motions is reflected in the minutes of the January 17, 2019 Regular Meeting.



PORT OF NOME TARIFF RULES AND REGULATIONS

TARIFF NO. 15

ADOPTED: March 25, 2019

Ordinance No: O-19-02-01

**CITY/PORT OF NOME
P.O. BOX 281
NOME, ALASKA 99762**

**PH. (907) 443-6619
FAX (907) 443-5473
PORT@NOMEALASKA.ORG**

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CHAPTER 1

GENERAL PROVISIONS

01.010 Legal Effect:

(a) These tariff regulations, published online at www.nomealaska.org, 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 13 (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 being published electronically. For the convenience of port users this tariff is posted on the Internet at www.nomealaska.org.

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
102 DIVISION ST.
NOME, AK 99762
port@nomealaska.org**

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, gravel, and equipment, providing haulout services, vessel repairs and/or any type of labor services anywhere on Port of Nome property shall have on file with the Port a current certificate of liability insurance in the amount of \$1,000,000.00 (one Million dollars) naming the Port as a certificate holder and additionally insured before they are allowed to work within the facility, and listing all equipment and vehicles owned by the company or person that are being used at the port facility and are covered by the policy. Companies, persons, and operators required to file a certificate under this paragraph are also subject to restrictions in Section 01.050(d) and (e) of this Tariff. It is the responsibility of the insured to provide renewal certificates to the Port Director prior to the policy expiration.

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 additionally post a bond and/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 and/or to ensure collection of incurred fees or charges.

(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 the port user may cause to the submerged lands, causeway, breakwaters revetment, marine headers, floating docks, ramps or other facilities of the Port of Nome, reasonable wear and tear excepted.

(c) Each vessel owner/operator must maintain a local and emergency contact name, phone number and valid winter and summer mailing addresses on file with the Harbormaster's office at all times. It is the vessel owner's responsibility to update this information as needed and to notify the Port Director if the vessel may be left unattended. All unattended vessels are required to have a caretaker who is responsible for monitoring the vessel. Each caretaker must have current contact information on file with the Harbormaster's office. Anytime a vessel is transferred or conveyed to a new owner, both the seller and buyer shall contact the Harbormaster's office within three (3) business days of the transaction and provide all information necessary on the transfer.

(d) All users with vessels over 20 feet in length must provide proof of liability insurance. Vessels using the Belmont Beach and Snake River exclusively for the purposes of sport and/or subsistence fishing and hunting are exempt from this insurance requirement. Vessels using the Small Boat Harbor exclusively for the purposes of sport and/or subsistence fishing and hunting prior to June 15th or after October 15th are also exempt from the insurance requirement. This exemption does not apply to any vessels on charter or operating for hire. The Port Director has sole authority to determine whether a vessel is exempt under this subsection.

(e) Any entity required to have a current insurance certificate on file with the Port who fails to provide a current certificate after a written or oral request from the Port Director, shall be considered a trespasser on Port property and subject to one or more of the following actions: 1) summary eviction; 2) issuance of a stop work order by the Port Director, his or her designee, or any Public Safety officer; 3) daily fines of \$300 for each day of operation without the required certificate; 4) future denial of use of the Port of Nome; and/or 5) additional fees and penalties as set out in this Tariff.

01.055 Snake River area:

(a) Vessels drawing less than 20 inches of water, including support vessels, may only moor in the Snake River area, and may not dock anywhere else in the Harbor unless specifically allowed by the Port Director or Harbormaster.

(b) Support vessels may not remain attached to main vessels, or dock in the Small Boat Harbor unless approved by the Port Director. All users must keep mooring areas alongside their vessels clear of obstructions to allow for other vessels to raft.

(c) Any vessel, regardless of size, may apply to the Harbormaster for a Snake River permit, which shall be issued in his or her discretion, subject to availability and compliance with use restrictions. The Port Director and Harbormaster may also require or permit vessels to use the Snake River area at his or her discretion.

(d) All provisions of this tariff, the rules and regulations, and other Port policies apply equally to vessels and users of the Snake River area.

(e) Users should exercise due care when anchoring along the bank or in the mudflats. All moorage is undertaken at the user's own risk. The Port is not responsible for any damage to persons or property on Port property, including the Snake River area, the Belmont Beach launch, and all other facilities.

(f) Vessels must be properly anchored and secured. Vessel owners should monitor or check their vessels frequently in order to ensure compliance with this section, especially during high wind and surge.

(g) No sewage or waste may be disposed of anywhere in the Port Facility, except in authorized disposal containers provided.

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 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 to and the 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 be refused further access to the Port in addition to any other fine or penalty imposed by law. Any vessel located within the Port of Nome upon which any conduct occurs that is in violation of the law or this tariff, may be refused future access to the Port. Any person who refuses or repeatedly refuses to obey a direct order of the Harbormaster or Port Director may be subject to fine under Section 01.060(d) of this tariff and **permanently** denied access to the facility. The Port Director shall have full discretion to take the appropriate action to enforce the rules contained in this tariff and other municipal, state, and federal laws, up to and including permanent denial of access to the Port and Port facilities and/or impounding and disposing of the vessel.

(d) Any person or vessel or vessel owner or operator who violates any provision of this tariff or the rules and regulations of the Port of Nome shall be subject to a civil fine in an amount of \$500 for the first violation, \$750 for the second violation, and \$950 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) The amount of fines assessed 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 in writing an informal administrative hearing with the Port Director within thirty (30) business days of the date of receipt of the invoice. The Port Director shall schedule the informal administrative hearing within thirty (30) business 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) business 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) business 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 account or fine, or that is owned or operated by a person who has incurred an unpaid account or 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. Any user who facilitates or assists a person with an unpaid fine in using Port facilities when the person is banned from using Port facilities, or in an effort to avoid such a ban or fine from being imposed, enforced, or collected, may likewise be denied use of the Port for up to ten (10) days or until the fine is paid, at the sole discretion of the Port Director.

(h) The Port Director, Harbormaster, their designees, and employees shall at all times have the right to refuse the use of any port or harbor facility by any person, equipment materials or vessel, or to remove any vessel or, person or cargo at any time from any port, or harbor facility. This right shall be reserved at all times to the Port of Nome without responsibility for demurrage, loss or damage when:

(1) previous arrangements for berthing, space, receiving or unloading have not been made with the Port Director; or

(2) the vessel is deemed unstable, a fire hazard, or threat to the environment and may pose risk to life or property; or

(3) the value of the vessel, in the opinion of the Port Director, is less than the probable service and other charges accruing or likely to accrue for its use of the city dock or terminal, or harbor facility; or

(4) during periods of congestion or in cases of emergency, in the judgment of the Port Director, the circumstances are likely to prevent the city docks or terminal, or harbor facilities, or any portion of them from providing customary services to the public.

For vessels that may be hazardous or become a menace to other vessels, their occupants, or city facilities, the Port Director may require an operator or owner of a vessel to furnish evidence that there is currently in effect liability insurance in an amount satisfactory to the City by filing a certificate of insurance or other satisfactory evidence signed by an agent or officer of the insurance company and stating the effectiveness and expiration date thereof. Upon demand of such proof of coverage, the operator or owner shall be subject to the penalties set forth in Section 01.050(e) of this tariff.

(i) The Port Director shall at all times have the right to impound a vessel for failure to pay required fees or obey other provisions of this tariff.

(1) The Port Director and/or Harbormaster is authorized to impound or move any vessel in or on the Harbor, terminal, or dock facilities if the vessel is in violation of any provisions of this tariff; or any vessel whose owner or operator has not paid any fee or charge due to the City for the vessel by the due date of such fee or charge and such fee or charge is **thirty (30) calendar days past due**; or any vessel which is unsafe and whose owner or operator has failed to remove it after notice. The Harbormaster may impound a vessel by immobilizing it or removing or having it removed from the water and placed in City or commercial storage with all expenses and risk of haul-out and storage to be borne by the owner of such vessel.

(2) The owner or operator of any vessel impounded by the City shall be subject to and liable for all costs incurred by the City by reason of impounding or removal, as well as all costs associated with collecting unpaid fees or charges, including all reasonable and actual attorney's fees.

(3) In addition to the rights described in this section, the Port Director and/or Harbormaster may immobilize, impound, or seize any personal property located on Port property, including machinery, containers, trailers, gear, tools, and equipment of any kind, in order to secure payment of unpaid fees, accounts, or fines. If the personal property is not redeemed by complete payment of the account, it may be sold as surplus property and the proceeds applied to the delinquent account.

(j) Any vessel that is deemed delinquent, derelict, or abandoned as defined in NCO 12.30.010 and which is located within the boundaries of the Port of Nome may be impounded and moved and disposed of in accordance with the procedures outlined in NCO 12.30.010 - .080.

(k) Any equipment or cargo that is deemed delinquent, derelict or abandoned within the boundaries of the Port of Nome shall cause a written notice to be sent to the owner of record via certified mail. If no response is received within thirty (30) business days, the cargo and/or equipment shall become the property of the Port of Nome and may be disposed of immediately. All costs associated with the handling of such items will be billed to the owner on a time-and-materials basis.

01.070 Housekeeping and Safety:

(a) All persons entering or using Port of Nome property are required to maintain the same in an orderly and clean 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. Users shall be responsible for all charges associated with cleanup, including disposal of hazardous or non-hazardous materials and storage of non-disposable items and materials. Such items and materials will be kept at the user's expense for no more than sixty (60) business days and then disposed of in a manner deemed appropriate by the Port Director, with costs of disposal also chargeable to the user. Users may be allowed to

obtain a dockside vessel work area immediately adjacent to their vessel for a limited period of time, at the discretion of the Port Director. Dock face walkways must be kept clear at all times for safe access.

(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.

(c) Per NCO 10.30.020, unattended animals are prohibited. No animal may run loose within the Port and Harbor facilities. All vessels arriving into Nome with animals onboard must contact the local Animal Control Officer (through the Harbormaster or Nome Police Department) for a visual assessment of the animal and current vaccination records, prior to the animal being allowed to leave the vessel. Non-aggressive animals, in compliance with this section and NCO Chapter 10.30 will be permitted on the dock or a vessel, but must remain properly restrained or leashed at all times while in the port area. Violators will be reported to the Nome Police Department, and loose animals captured and impounded by the Animal Control Officer.

(d) All persons utilizing underwater divers for repair and/or maintenance anywhere inside the Port of Nome and/or Small Boat Harbor, are required to notify the Harbormaster's office of the scheduled dive activity and display the "Diver Down Flag" on the vessel mast for the entire duration of the dive. The Harbormaster's office must be notified once the operation is complete and all divers are out of the water.

(e) At the Port Director's discretion, the Port Director shall at all times have the right to immediately remove any hazardous vessel, or any vessel containing hazardous cargo, or one containing cargo, which by its nature, is liable to damage other vessels, or other cargo, or harbor or port facilities. The vessel may be removed from its location to any other location and all expenses and risk of loss or damage shall be charged to the account of the owner, shipper, vessel or consignee.

(f) No person shall cause or allow to occur any nuisance property in or on Port of Nome Facilities. The Harbormaster may take immediate possession of and/or remove such nuisance property.

(1) Nuisance property shall be subject to impound if not removed, or written permission from the Harbormaster for such placement or storage is not received, within 48 hours of placement on port property. Written notice shall be placed on the property to the extent practicable.

(2) In the event property impounded under this section remains impounded for 30 days and impound charges and fees remain unpaid, the Harbormaster may sell the property at public auction to the highest and best bidder. Such sale shall be conducted pursuant to a procedure generally similar to that set forth in Nome Code of Ordinances Chapter 2.12 for sale of abandoned property, and, in addition to the notice requirements of Chapter 2.12, shall post notice in the Harbormaster's office as well as one other conspicuous place in the port; provided that if impounded property is reasonably believed by the Harbormaster to have a market value of less than \$250, the Harbormaster shall make reasonable effort to give notice of the impoundment to the owner and post notices in the Harbormaster's office and at least one other conspicuous place in the port, if not redeemed within 30 days, the Harbormaster destroy, retain for a public purpose, donate, or sell the property as he or she deems fit.

01.075 CARE IN THE PERFORMANCE OF OPERATIONS:

(a) Third party employees shall exercise care in the performance of their operations in order to prevent injury to, or death of, any person and damage to, or destruction, or loss of property, whether of the Port, of the third party, of the vessel being loaded/unloaded, or of another party.

(b) When cargo/freight is in an elevated position, such as suspended from a crane hook, a safety line should be attached to the load and handled by a Safety Watch person to prevent spillage, or unplanned descent, which has the capability to produce injury, or death. In all cases, the Safety Watch should ensure that individuals are prevented from walking under a raised load and remain clear of cargo/freight operations.

(c) Safety helmets (hard hats) and safety vests are required when working cargo, gravel and equipment on, or at, Port of Nome facilities. The use of steel-toed shoes/boots is strongly recommended.

(d) Any third party operating at the Port of Nome shall take all necessary safety and fire precautions, and comply with recognized commercial and marine safety practices, procedures, and regulations.

01.080 Used Oil Handling:

(a) Used oil in increments of five (5) gallons or less from small vessels (less than 75 feet) will be accepted free of charge when disposed of properly by Port users in the specified containment bin located in the Small Boat Harbor facility. Used sorbents and filters are collected in a tote near the containment bin in reasonable quantities for incineration. Please contact the Harbormaster's office regarding larger quantities.

(b) Used oil from any source other than small vessels or 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 used oil will be accepted.

(c) Any unpermitted disposal or abandoning of used oil in the Port of Nome will subject the person disposing of or abandoning the used oil, the vessel from which the used oil originated, and the owner of the vessel from which the used oil originated, to the fine established by this tariff. Glycol, solvents or any other non-petroleum based product disposal shall not be permitted. Users are hereby notified that surveillance cameras may be operating at any time, and shall be used to determine whether a user has improperly or unlawfully disposed of or abandoned prohibited materials.

01.090 Facility Security and Access:

(a) All persons within the Port of Nome must comply with any security signage and barricades defining restricted or secured areas and controlled access points. Specific regulations regarding the handling of cargo and fuel and access within these areas are outlined in the Port of Nome's USCG approved Facility Security Plan. As of February 12, 2009, all personnel needing access to restricted or secure areas within the facility during regulated operations will be required to present their Transportation Worker's Identification Credentials (TWIC) and have a valid reason for entry. Cargo and fuel shore-side operators will operate under the Port's Security Plan and be responsible for controlling access to the restricted and secure areas during their respective operations. No unauthorized personnel (including customers of shore-side operators) will be allowed in the restricted and secure areas, unless specifically authorized by the Port Director or Harbormaster. Failing to comply with any of these requirements may result in the imposition of the fines set forth in Section 1.060 of this tariff, and removal of the operator from the Port's Security Plan. Operators removed from the Port's Security Plan shall not operate at the facility until a stand-alone company security plan, approved by the USCG, is submitted to the Port. Regulated cargo and fuel vessels will maintain security watch whenever remaining dockside without actively conducting any cargo operations. The Port of Nome will provide access control to these areas during all passenger and foreign-flagged vessel operations.

(b) All foreign-flagged and/or passengers vessels requiring active port security under MTSA will be charged one security fee for each 12 hour period of security (shift), providing the over-time labor hours do not exceed 6 total hours during the 12 hour shift. For security shifts exceeding 6 hours of over-time, labor hours will be billed per the rate and type identified in Chapter 5, Section 05.035(a)8 of this tariff. All shift hours classified as Holiday Time will be billed per the rates in Section 05.035 (a) 8 of this tariff.

(c) All film, video and/or photography production companies are required to complete a license application, pay the application fee, and receive an approved license prior to any production operations commencing on Port facilities. This licensing requirement applies to commercial entities only, and not private photographs or video.

01.100 Maneuvering and Navigation:

(a) All vessels traveling in and out of the Nome Port and Harbor will be required to have at least one fully operational marine VHF radio on board at all times, and must monitor VHF Marine channel 16 when maneuvering within the navigation channel into or out of the port or harbor entrances. All vessel operators, regardless of size, must adhere to standard rules of navigation at all times, and grant the right of way to larger vessels that are underway in an approach or departure. Vessels larger than 75 feet in length are required to give security calls before entering or departing the navigation channel.

(b) The narrow 500' wide breakwater entrance and large waves, strong winds and currents challenge safe transits to and from the Port of Nome. The Port of Nome has accordingly prescribed navigation safety parameters to enhance maritime safety. All vessels seeking access to port facilities shall comply with the written navigation safety directives as provided by the Harbormaster.

(c) All vessels operating within the Small Boat Harbor and navigation channel shall do so in a safe manner so as not to cause a wake, wash or wave action which will cause damage or endanger any other vessels or occupants. Vessels shall travel at a speed no faster than 5 mph while in the Small Boat Harbor or portion of the navigation channel that extends from the Inner Harbor to the southern limits of the armored slopes of the Small Boat Harbor entrance. Violators of this section will be subject to fines as defined in Section 01.060(d) of this tariff.

(d) Fish nets that extend across or below the water's surface may not be used or deployed in or around any portion of the facility between the entrance to the Port at the breakwaters, through the entire outer and inner harbor, and extending to 300 feet above the Snake River Bridge.

(e) The Port of Nome currently hosts an active National Oceanic and Atmospheric Administration (NOAA) tidal station, located at the Causeway City Dock. Station information can be found through a link on the Port & Harbor page of the City of Nome website at www.nomealaska.org.

01.110 Closed Season:

(a) The Port of Nome facilities are considered closed during the iced-in period of each year, typically between mid-November and late-May/early-June. Activities within the Port may not be carried out during the closed season without prior authorization by the Port Director. The Port Director shall have sole discretion to determine whether the user requesting access shall be allowed to use the Port under such circumstances. Users should submit cost estimates and work plans when seeking approval to conduct operations during the closed season. The Port Director shall evaluate any request to use the Port during the iced-in months according to the cost and burden the facilities may reasonably be expected to incur by approving the request, in comparison with its overall value to the community, the Port and City of Nome.

(b) If the operation is approved, all reasonable charges incurred by the Port of Nome over and above the typical summer season expenses for a similar operation will be the responsibility of the user. The rate may be negotiated or based on actual incurred costs, as determined by the Port Director. Any damage to the Port of Nome during these winter operations will also be the responsibility of the user and/or company conducting the operation.

CHAPTER 2 **BERTHING**

02.010 Permission Required:

(a) Prior to any non-home-ported/transient 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 and all cargo vessels requiring use of the Small Boat Harbor, at least 7 days in advance of the requested day of use. When a vessel requesting use of the Causeway facility require the stand-by of emergency services or security services, such as vessels loading or unloading hazardous materials and passenger vessels, written requests for the specific services shall be submitted no less than five days in advance of the requested date of use. Vessels arriving at the Port of Nome without prior notification will be granted dockside access only after all scheduled traffic has completed operations or an open berth is available and sufficient time exists for operations to be completed prior to the arrival of the next scheduled vessel.

(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 02.020 of this tariff 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 Inner Harbor facility only, provided the Port of Nome is given notification of vessel's initial arrival or launch, and a docking permit defining a particular period (weekly, monthly or seasonal) is issued by the Port of Nome for the vessel. It is the responsibility of the vessel owner/operator to obtain renewals for expired docking permits. Users choosing not to obtain a docking permit will pay dockage at the full daily rate identified under Section 05.010, with all tariff rules and stipulations in effect.

(d) At the discretion of the Port Director or his/her designee, docking permit holders operating out of the Inner Harbor may be **temporarily** allowed to occupy a Causeway dock for the purposes of refueling, repairs or other short-term operational activities. Docking permit holders operating out of the Outer Harbor shall be allowed to **reserve space** at a Causeway dock for the same aforementioned purposes, but such occupancy and use shall be in accordance with any restrictions or limitations set by the Port Director and shall not interfere with or delay previously scheduled vessel traffic at the Causeway.

(e) All docking permit holders must sign and file with the Harbormaster's office a Dock Use Agreement stipulating compliance with harbor rules, including the use requirements set forth in Section 01.050 of this tariff, and file the required paperwork and/or fee under the applicable provisions of Section 01.050(d) of this tariff. Users who cannot provide proof of coverage are subject to additional fees and may be denied use of the Port.

(e) All berthing and docking permits assigned shall apply to a specific vessel at a specific location (or area) for a specific period of time, and are non-transferable, non-refundable, 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 all written requests for preferential berthing, for specific dates and times, 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. Delays resulting from inclement weather will be handled on a case-by-case basis as determined by the dPort Director or Harbormaster.

02.030 Alteration or Revocation of Berthing Assignments:

The Port Director may, at 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:

The Port Director may require or cause any vessel's berthing assignment to be changed or reassigned to facilitate access and efficiency in the Port, or if the Port Director determines that doing so is in the best interest of the public health, safety, or welfare. 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 orally or in writing, or to the permittee if the vessel is not in the Port of Nome. The vessel shall comply

fully with the Order no later than four (4) 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 improvements or alongside another vessel shall be secured with head and stern lines to mooring bitts, bollards or cleats. **Any securing of lines to scupper holes, tires, chains or ladders 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, anchors, and rigging in use by his or her vessel during all weather conditions.

(b) The Port Director may require vessels to raft on the floats and sheet pile docks during periods of heavy traffic and/or bad weather. If so ordered, all vessels shall comply immediately. Volunteer rafting of like-owned or buddy vessels are encouraged. No vessel, owner, agent, etc. has the right to refuse outside berthing if it has been authorized by the Port Director or their designee. Vessels tied to the outside of a vessel already tied to any part of the dock facilities (rafting), will adhere to the same Tariff Rules and Regulations as any vessel tied to the dock, and is subject to the same charges as if moored directly to the dock. When rafted vessels are moved to allow for departure of another vessel, the remaining vessel will be securely re-tied in the manner described above. Users are required to maximize the use of all sheet pile and floating dock space by mooring as close to neighboring vessels as is safe under the circumstances.

(c) Every vessel secured to a structure, or lying alongside another vessel berthed at the Causeway facility within the Port of Nome shall, from sunset to sunrise, be equipped with stable access secured 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 75 feet in length moored, and all vessels at anchor within the Port of Nome shall be sufficiently illuminated between sunset and sunrise so as to not compromise navigational safety.

(d) 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. Skiffs and other small craft in the Small Boat Harbor and Snake River may be exempt from this requirement if the Port Director approves of an alternative method of ensuring that a vessel can be contacted and the vessel relocated without delay in the event of an emergency.

(e) Failure to comply with these regulations 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.

02.070 Floating Dock:

The floating docks are provided for vessels that are 40 feet and under in length unless otherwise allowed by the Port Director. All moorage on the floating docks is on a first-come-first-served basis, as space permits. Rafting is required during periods of heavy traffic and/or bad weather, provided that this does not cause a safety or navigation hazard. When rafted vessels are moved, they will be securely re-tied. The floating docks and ramp areas shall not be used for storage of any kind and shall be kept entirely clear and tidy of all gear, supplies and debris by its users. Storage is available on the uplands near the floats on arrangement with the Harbormaster's office.

02.080 Vessel Condition:

All vessels moored in the Small Boat Harbor and Snake River must be in a functional status, unless actively conducting repairs dockside with the consent of the Port Director. At least once in each 30-calendar-day period during the ice-free season, all vessels must leave the Small Boat Harbor under their own power,

travel at least half (½) mile outside the Port, and return under their own power unless the Port Director has provided written exemption for a vessel undergoing long-term repair. Any vessel that does not or cannot do so will be deemed "inoperable." Any vessel deemed inoperable for a period exceeding 15 calendar days, may seek authorization for one (1) extension of no more than 15 calendar days to allow repairs to continue dockside. After 30 calendar days of being inoperable, the vessel must be removed from the harbor until such time as it is deemed functional again and authorized to be moored within the facility.

02.085 Repairs and Maintenance:

When work is performed on tugs, boats, barges, or other types of maritime craft while they are in temporary storage or moored at the dock, the area where the work is being performed must be cleaned up and reasonably consolidated at the end of each working day. Failure to clean up after the work is performed could result in the owner/operator being assessed a clean-up fee plus being denied future storage and moorage privileges. Tarpaulins, or some form of heavy-duty material must be placed under the section of the hull being scraped, or worked on, so as to preclude any of the residue being left on the land where the craft is located. Owners/operators shall be responsible for disposal of any debris, or residue, and for restoring the ground base to original condition when work is completed. Users performing maintenance and repairs with wheeled equipment that can be moved immediately upon order of the Harbormaster are authorized to occupy port property at no charge for a maximum of one week to conduct the work. Upon conclusion of that week, the Harbormaster may approve up to one additional week at his or her discretion, provided there is sufficient justification.

02.090 Barge Ramp Use:

(a) Use of the Barge Ramp in the Small Boat Harbor must be scheduled to prevent vessel conflicts. Vessels under twenty-five (25) feet will be exempt from this requirement, provided that the operation requiring use of the ramp occurs in less than **twenty (20) minutes**. Vessel trailers are subject to inspection by the Port Director and required to be adequately constructed to support the length and weight of the vessel. Launching operations must likewise be conducted in a safe and reasonable manner. Operations deemed unsafe by port staff will cease immediately until alternative methods or equipment are obtained. Users are responsible for any damage resulting from use, and are required to clean up ramp after vessel launch or haulout. Before hauling out any vessel over 50 ft in length, a written Haul Out/Launch Plan must be filed with the Harbormaster for the Harbormaster's review. If the Harbormaster does not object to the plan within 3 days of filing, the vessel may be hauled out in accordance with the filed plan. Violation of this section will subject users to fines set forth in Section 01.060(d) of this tariff.

(b) Haul-out and launch plans shall be prepared to minimize interference with other users and ensure the safety of all users and property.

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. 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 vessel, and the vessel, all of whom shall be jointly and severally responsible for the payment of all fines assessed. In addition to the fines 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 and vehicles at all times unless special arrangements are made with the Port Director. The Port Director may allow for the temporary placement of cargo in otherwise prohibited areas for purposes of loading/unloading or authorized and active repairs. Unauthorized cargo and vehicles 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 seventy-two (72) hours prior to the vessel's arrival. The exact staging location shall be determined by the Port Director. Specific written directives for loading/unloading all rock, sand and gravel materials are available at the Harbormaster's office and at www.nomealaska.org. Every contractor should review the directives prior to the start of each season. Staging areas and dock facilities must be returned to their original condition by the port user within twenty (24) hours of the vessel's departure unless gravel exports continue over a prolonged period, in which case the gravel staging areas shall be returned to their original condition by a date approved in advance in writing by the Port Director. Any damage to facility or significant material loss overboard must be reported to the Port Director immediately. Continued overboard material loss that goes unreported will subject contractors to fines as outlined in Section 01.060(d) of this tariff, and the expense of retrieving overboard materials. Repeat offenses may result in the contractor being denied use of port facilities.

(d) Over-side cargo being discharged or loaded between vessels when one vessel is berthed at a Port of Nome facility shall be charged according to the wharfage rates identified in Section 05.020(a) 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 are 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. All cargo, flats and loose stow MUST be removed from the face of the Causeway docks during storms to prevent damage and potential loss. It is the responsibility of the carrier or consignee to monitor the weather when using the Causeway docks, and remove any cargo or equipment prior to each storm event or at the direction of Port staff.

(f) All hazardous cargo shall be handled on a first-on, first-off basis when being loaded to or unloaded from a vessel moored at the Port of Nome. Hazardous cargo shall not be left unattended unless authorized by the Port Director.

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 consignor, 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, Dangerous Cargo Manifests (DCM) as required by the USCG, 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 forty-eight (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 the payment of all fines assessed. In addition to the fines 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.

(c) All charges associated with a vessel's port call will be charged on one invoice, unless a different billing arrangement has been previously approved in writing by the Port Director. All manifested commodities (cargo, fuel, equipment and gravel) will be billed to the carrier transporting the commodity, unless a different billing arrangement has been previously approved in writing by the Port Director. Charges will not be split between a vessel and any other person unless deemed warranted by the Port Director.

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 inbound petroleum transfers at the Causeway City Dock header and the dispensing of potable water. Labor costs for header crew during petroleum transfers will be assessed per Section 05.035(a)(8) of this tariff. The Port of Nome may authorize an approved cargo handling permittee to monitor outbound petroleum transfers, provided all personnel participating in the transfer are first deemed

qualified by the Harbormaster. 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 seventy-two (72) hours prior to the vessel's arrival. Failure to meet this requirement may subject the user to delays in product transfer. In the event that the user is unprepared to commence transfer after stating readiness, or delays occur that are directly related to the product carrier or recipient, the stand by rate established in Section 05.035(a)(8) of this tariff for per man per hour will be charged by the Port of Nome for port personnel until operations resume. A minimum rate of 750 GPM (gallons per minute) or 45,000 GPH (gallons per hour) must be maintained for each inbound and outbound fuel transfer or labor costs for City personnel will be charged to tank farm operator conducting transfer. A list of specific directives for conducting transfers is available at the Harbormaster's office or at www.nomealaska.org. All tank farm operators and fuel suppliers should review the directives prior to the start of each season.

(b) All cargo handling equipment shall be properly maintained and operators of cargo handling equipment shall be properly trained, 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 operators or 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.

(d) High Mast Lights must be used any time cargo, fuel, equipment and gravel operations occur on the City and Westgold Docks during periods of darkness. Vessel operators who intend to operate during dark hours must notify the Harbormaster or his/her designee prior to the vessel's arrival. Only port staff is allowed to operate the lighting controls unless the Harbormaster has specifically authorized a particular user to do so.

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 at 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. All Petroleum Products and Hazardous Substances loaded or unloaded as cargo shall be identified on the Dangerous Cargo Manifest (DCM) (required with submittal of overall cargo manifests in Section 03.020(a) of this tariff) and clearly marked on vessel cargo manifests, including property reporting requirements. Dock-side bulk transfer of Petroleum Product cargo is restricted to the Causeway City Dock and the Harbor East Dock only, and limited to bulk transfers between vessels, or between vessels and shore-based tanks. Marine fuel retail sales are restricted to authorized locations and limited to outbound shore-based pipeline or trucked deliveries. The Port Director may from time to time impose safety conditions and such other operating procedures as are necessary for the transfer, including retail sale, of any such materials anywhere inside the Port Facility and exceptions to these restrictions may be made at the discretion of the Port Director.

(b) Each user of the Port of Nome transferring Petroleum or Hazardous Substances 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 solely on equipment or expertise outside the immediate Nome area at the time of the cargo handling shall be acceptable.

(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 standard regulatory safety conditions controlling the use, storage, and disposal of such materials.

(d) A weekly permit is required prior to initiating any hotwork (welding, cutting), sandblasting, or painting, whether on a vessel or dockside. A text or telephone call notification to the Harbormaster or his designee is required prior to commencing any such work in order to facilitate the safe and orderly operations of the port. Permit application forms are available at the Port office during regular office hours. Outside regular office hours, users must first obtain verbal authorization by contacting the Harbormaster via VHF radio or other means, which authorization shall be logged by the Harbormaster, followed by the completion of the permit application on the next regular business day at the Port office. Users who do not obtain advance approval will be subject to the imposition of fines set forth in Section 01.060(d). Any "hotwork" conducted on Port of Nome facilities must be done in compliance with USCG 33CFR126.30.

(e) 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.

(f) 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. Any release of Petroleum or Hazardous Substances into the waters or property of the Port of Nome facility shall be reported to the Harbormaster and federal/state agencies listed below without delay. Clean-up efforts must commence immediately. Should the responsible party not begin clean-up efforts within a timeframe deemed reasonable by the Harbormaster, port personnel will provide such services, with all materials and labor costs charged to the responsible party.

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| • Port & Harbor Office | 907-443-6619 |
| • Harbormaster | 907-304-1906 |
| • National Response Center | 800-424-8802 |
| • U.S. Coast Guard – Sector Anchorage | 907-271-6700 |
| • Alaska Dept. of Environmental Conservation | 907-451-2121 |

(g) 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.

(h) 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. Adequate signage shall be displayed as a danger signal in plain view on all hazardous cargo in staging, transshipment or laying at rest in the Port of Nome.

(i) The standby of emergency services is required during the loading or unloading of "Designated Dangerous Cargo" as defined by 33 C.F.R. 126.09 as amended, and/or any other materials the transport of which requires a permit pursuant to 33 C.F.R. 126.17, 49 C.F.R. 176.100 and/or 49 C.F.R. 176.415. Standby emergency services will also be provided upon request by the shipper. The shipper shall pay for the standby of emergency services at the rate set in Section 5 of this tariff. A minimum of five (5) business days' notice must be provided to the Port Director of the specific date and time the stand by services are needed. Any violation of this 5-business-day notice requirement will be subject to the imposition of fines set forth in Section 01.060(d).

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. Any and all storage fees and all costs of removal and subsequent handling and storage shall be charged to the account of the owner of the cargo. All cargo considered abandoned under Section 01.060(k) of this tariff, shall become the property of the Port of Nome and may be disposed of immediately.

03.080 Over-Side Petroleum Products Transfers:

Over-side transfer of Petroleum Products is allowed only for the purpose of moving cargo between barge carriers for inbound delivery to shore or outbound delivery to coastal communities. Over-side transfer of Petroleum Products for the purposes of marine fuel retail sales is not allowed.

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, vessel, 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. No hazardous substances or explosive material components may be stored at any location on Port of Nome property without the prior written consent of the Port Director. The Port Director has complete discretion to refuse any request for storage of hazardous or explosive materials.

(c) The Port Director will designate the location of open storage for cargo or a vessel on a daily, weekly, monthly, or annual basis. Users of the open storage areas for any duration of time are required to sign a Storage Use Permit (SUP) from the Port of Nome before placing cargo or a vessel in open storage. The recipient of a SUP shall comply with the rules and responsibilities outlined in the SUP. Cargo or vessels 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 or vessel and result in the imposition of the fines set forth in Section 01.060 of this tariff against the person violating this provision. In addition to the fine assessed, persons placing cargo or vessels 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 with safety chains for all vessel types except flat bottom vessels or skiffs less than 20 feet. Twin screw engine vessels are to have boat stands under the bow for storage purposes. All vessel storage must be approved in advance by the Port Director. 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. Vessels not properly stored, or that shift from inadequate storage methods, must promptly be repositioned and stabilized by the owner. Vessels remaining in an unsafe stored condition will be repositioned by a private contractor hired by the Port of Nome, with all costs chargeable to the vessel owner. In addition, violators of this section will be subject to the fines set forth in Section 01.060 of this tariff.

(e) All persons are prohibited from using vessels, containers and/or structures, or vehicles on Port of Nome property as residential units. This includes vessels in storage on port property – no liveaboards on hard ground. Violations of this provision shall be subject to fines as set forth in Section 01.060 of this tariff. Repeat violations of this provision may cause the termination of storage and removal of all user's containers, cargo or equipment at user's expense.

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) Any vessel permitted to anchor within the Port of Nome municipal boundaries, that is loading or unloading cargo or passengers by lighters, shall pay dockage at the daily rate assessed upon the size of the anchored vessel(s), 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 or passengers, except when the vessel that is being lightered from is docked at the Causeway facility, whether or not that vessel is actively engaged in loading or unloading.

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 dock or landing 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) calendar days in succession can be rescheduled as an idle vessel for purposes of dockage charges. Beached or grounded vessels will not be permitted to remain throughout the winter at the high tide line anywhere within the Port of Nome.

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.....	\$1.21/ft. per day
(B) Vessels over 200 ft. in length.....	\$1.85/ft. per day
(C) Vessels anchored within the breakwaters (outer harbor)....	\$0.61/ft. per day

(D) Homeported vessels operating out of the port & harbor during the months of June through October shall have the option to apply for a docking permit under one of the categories below and pay at the current rate (for that size vessel) as follows:

1. INNER HARBOR:

	<u>WEEKLY*</u>	<u>MONTHLY*</u>	<u>SEASONAL*</u>
Vessels 32 ft. and under	\$91.00	\$273.00	\$789.00
Vessels over 32 ft. to 52 ft.	40%	25%	15%
Vessels over 52 ft. to 72 ft.	55%	35%	25%
Vessels over 72 ft. to 92 ft.	65%	45%	35%
Vessels over 92 ft. to 125 ft.	75%	55%	45%
Vessels over 125 ft. to 175 ft.	85%	65%	55%
Vessels over 175 ft.	90%	75%	65%

2. CAUSEWAY:**

	<u>DAILY</u>	<u>WEEKLY*</u>	<u>MONTHLY*</u>
Vessels under 200 ft.	75%	65%	55%
Vessels over 200 ft.	85%	75%	65%

*Percentages of standard daily dockage rate calculated on length of permit

**See Section 02.010(d) referencing Berthing

4) The fee for any vessel docking in the Snake River area is one-half (1/2) of the rate applicable to the vessel under the schedule set forth in Section 05.010 (a) 3. Users must apply to the Harbormaster for a Snake River area docking permit. Snake River permit holders must comply with the Port of Nome Moorage Policy and all other rules and regulations, including all applicable provisions of this tariff. Sport fishermen and subsistence users of the Snake River area are exempt from the dockage fee.

(b) Home-ported vessels dry-docked within the Port of Nome that remain idle throughout the applicable period shall pay a flat rate identified below for the winter-season (November through May) or summer-season (June through October).

	<u>Winter</u>	<u>Summer</u>
Vessels 32 ft and under	\$ 525.00	\$ 420.00
Vessels over 32 ft to 42 ft	\$ 788.00	\$ 630.00
Vessels over 42 ft to 52 ft	\$ 1,050.00	\$ 840.00
Vessels over 52 ft to 62ft	\$ 1,575.00	\$1,260.00
Vessels over 62 ft to 72 ft	\$ 2,100.00	\$1,680.00
Vessels over 72 ft to 92 ft	\$ 2,940.00	\$2,310.00
Vessels over 92 ft to 125 ft	\$ 4,725.00	\$3,465.00
Vessels over 125 ft to 175 ft	\$ 7,560.00	\$5,545.00
Vessels over 175 ft	\$11,720.00	\$8,595.00

(c) **No vessels** will be permitted to freeze in at the water line within the Small Boat Harbor or Port of Nome Facilities during the winter months of November through May, except with prior written approval from the Port Director, based upon specific design requirements.

(d) **No vessels** will be permitted to dry dock or to be stored on the Causeway docks or along the Causeway road at any time during the year without the expressed written consent of the Port Director.

(e) Vessels using the Belmont Beach or Snake River area for the purposes of sport and/or subsistence fishing and hunting are exempt from docking fees. This exemption does not apply to improved docking facilities within the Port and Harbor.

(f) Vessels requiring shore-side assistance from the Port of Nome to secure the vessel shall be charged one line handling fee per visit. Line handling procedures shall be established by the Harbormaster and adhered to at all times. Any variation in these procedures will be implemented or approved by the Harbormaster as needed based on the individual requirements of the vessel. Notification must be made to the Port Director at least seventy-two (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 twelve (12) hours prior to each docking. If changes or delays to scheduled arrival and departure times occur within the 12hour notice window, a stand by time per man, per hour for port personnel will be assessed by the Port of Nome, unless notice is provided to the Harbormaster at least two (2) hours prior to the vessel's arrival or departure. Line handling services performed beyond regular operating hours will be charged per man hour at the applicable rate defined in Section 05.035(a) 8 of this tariff. Regular operating hours are 8:00 am to 5:00 pm, Monday through Friday, excluding holidays.

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

(h) 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, except during which time the vessel relocates to an open berth to receive fuel or water with the approval of the Port Director. All tug and barge vessels that arrive and remain in the "push" configuration, will be charged for the combined length of both tug and barge when alongside any dock or wharf structure. Barges moored on the "hip" of the barge will be assessed for the LOA (Length-Over-All) of the barge.

(i) Vessels drawing less than twenty (20) inches of water, including support vessels, may only moor in the Snake River area, and may not moor anywhere else in the Inner Harbor (unless authorized by the Port Director). The dockage rate set forth in Section 05.010(a) (4) of this tariff applies to all vessels utilizing the Snake River area unless the use is limited to vessel launching or haulout. Vessels using the area for launching and haulout purposes only are not required to pay the moorage fee. Improperly moored vessels, or vessels drawing less than twenty (20) inches of water docked in the Small Boat Harbor without permission, will be relocated at the owner's expense and assessed the appropriate fee. Repeat offenders will be fined in accordance with Section 01.060(d) of this tariff.

(j) All vessel trailers stored on Port property during the ice-free season will be stored in a location and manner as defined by the Port Director and assessed charges as set forth in Section 05.035(a) of this tariff. Parking stickers will be issued by the Harbormaster's office at the per foot rate defined in Section 05.035(a) 9 of this tariff, and must be displayed on the tongue showing the current calendar year. Trailers

without stickers that are left unattended for more than seven (7) calendar days will be impounded and hauled to the City monofill at the owner's expense. Payment for original parking fees, storage and moving costs will be required to retrieve trailers.

(k) The Port of Nome search and rescue vessel "The Guardian" is available for emergency and non-emergency response at rates defined in Section 05.035(a) 10 of this tariff. In order to qualify for the lesser non-emergency rate, vessels requesting assistance must specify that the situation is a non-emergency. Failure to specify will result in assessment of the higher rate.

05.020 Wharfage Rates:

(a) A wharfage charge for all cargo loaded or off-loaded between any vessel and the Port of Nome shall be paid as follows:

- 1) Bulk liquid products -

Inbound only.....	\$0.035 per gal
Outbound only.....	\$0.023 per gal
Over-side only.....	\$0.012 per gal**
Inter-facility transfer.....	\$0.035 per gal

- 2) Dry commodities, scientific equipment, ISO Tanks and company gear -
 (excluding rock, sand, gravel, project cargo and ship's gear)

Inbound/outbound.....	\$11.55 per ton
Over-side cargo.....	\$ 5.80 per ton
Over-stow cargo (outbound).....	\$ 5.80 per ton*
Inter-facility transfer.....	\$ 8.70 per ton

- 3) Rock, sand and gravel -

2,000 tons or under per barge load..	\$2.55 per ton
Over 2,000 tons per barge load.....	\$1.95 per ton
Over 40,000 tons per project.....	\$1.65 per ton

(*Over-stow rate is based on qualifying cargo in which full wharfage is being paid for inbound movement, and is destined to points beyond Nome.)

(**See Section 03.050 and 03.080 for restrictions)

- 4) Project cargo in excess of 2,000 tons
 in one shipment for one consignee to
 be consumed in one project 75% of published rate

- 5) Empty containers, bottles or tanks, that are non-revenue cargo,
 being shipped in or out for re-fill of product only..... No Charge

- 6) Ship's gear, ship's stores, and shore-side cargo handling
 equipment (as defined) No Charge

05.030 Terminal Storage Rates:

(a) A terminal storage fee for all cargo and equipment stored at the Port of Nome shall be paid as follows:

- 1) For open storage on uplands east and west of the
 Snake River (except Causeway)..... \$ 0.06 sq. ft. per week
- 2) For open storage on Causeway road or docks..... \$ 0.08 sq. ft. per week
- 3) Secured storage (palletized or exceeds 50#)..... \$18.00 per day

05.035 Amenities & Other Charges:

(a) A charge for these amenities will be assessed as follows:

- 1) Line Handling (Ships over 300') \$1,400.00 per visit*

Line Handling (Ships up to 300')..... (Initial tie-up and throw-off)	\$ 700.00 per visit*
2) Dump Truck/Refuse (Ships over 300') (a) Unregulated Refuse.....	\$425.00 per load*
3) Potable Water - First 1000 gallons.....	\$182.00 Flat Fee*
1,001 – 9,999 gallons.....	\$ 0.06 per gallon
10,000 gallons and above.....	\$ 0.04 per gallon
4) Garbage Dumpster Fee.....	\$ 43.00 per visit
5) Security Fee (Foreign Flagged and/or Passenger Vessels..	\$1,820.000 per 12 hour Shift*
6) Used Oil.....	\$2,365.00 per 55 gal. drum* (or any portion thereof)
7) Emergency Services Stand By - (First hour).....	\$1,820.00 hour
Each additional hour	\$1,213.00 per hour
8) Personnel Labor Rates (1 hour minimum):	
a) Regular/Straight Time.....	\$104.00 per hour
b) Over Time.....	\$161.00 per hour
c)	
d) Holiday Time.....	\$290.00 per hour
e) After Hours Call Out	\$318.00 per hour
f) Stand by	\$318.00 per hour
9) Trailer Parking Fee (ice-free season)	See rates shown in Section 05.030(a) Storage
10) Smart Ash Burner Operation – (burning used sorbents)	\$122.00/per hour
11) Gangway or Brow Rental.....	\$152.00/day*
Rubber Tire Fendering	\$152.00/day*
12) Vessel Assist – 28' Guardian	
After-Hours.....	\$910.00 Flat Rate
Regular Hours.....	\$267.00 Flat Rate
Plus Fuel/Oil... (1 hr minimum)	\$ 19.00 per hour
Plus Labor	See above labor rates*
18' Skiff.....(1 hr minimum)	\$ 31.00 per hour
13) Film License Application Fee.....	\$300.00 Flat Fee

*Rates for these services performed beyond regular operating hours will be charged per man hour at the applicable rate defined in Section 05.035(a) 8. Regular operating hours are 8:00 am to 5:00 pm, Monday through Friday, excluding holidays.

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 (72) 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.

(c) If, in the opinion of the Port Director, any operation, use, or user of the Port is reasonably likely to require special handling, the Port Director shall have the right to charge the user additional fees to compensate the Port for actual and/or reasonable costs associated with the operation, use, or user. This may be a flat fee or a negotiated rate, depending on the circumstances. Cases requiring "special handling" shall include off-season and other operations that the Port Director believes will require substantially more resources or funds than average operations or users,

05.060 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 (30) calendar days from 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 (30) calendar 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 (1) year without additional and supplemental evidence of continuing creditworthiness that is satisfactory to the Port Director. During this time of non-creditworthiness, the user shall be required to pay all charges in full and in advance for activity conducted within the Port of Nome. Further, users in 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 paid in full. At the Port Director's sole discretion and upon terms acceptable to the Port Director, including for adequate security, a user may enter into a payment agreement with the City for the purpose of satisfying debts owed for use of Port of Nome facilities, and such agreement may provide that the user shall not be considered in default or arrears if the user adheres to the terms of the agreement.

(d) No credit shall be extended to any person or entity who is 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.

(e) An administration fee of 20% will be charged on all issues that require administrative services to process and handle, beyond the typical day-to-day business, such as but not limited to; known spill response incidents that require port supplies and personnel, clean up, repair or replacement of facility or infrastructure due to user neglect or damage, etc. All outstanding accounts reaching any level of collection will be assessed a 15% collection fee for balances exceeding sixty (60) calendar days beyond the payment due date, and a 20% collection fee for balances exceeding one hundred and twenty (120) calendar days. Fees will be assessed on a quarterly basis and rounded up to the nearest whole dollar. Collection fees on account balances exceeding \$1,000.00 will be capped at the applicable percentage assessed on a \$1,000.00 account balance. An NSF fee of \$35.00 will be charged on all bounced checks. All foreign and domestic banking transaction fees incurred when making payments will be the responsibility of all users and will be charged to the applicable user account.

(f) Prepaid docking permits are non-refundable. Credits for unused portions of prepaid long-term storage may be credited back to user accounts at the discretion of the Port Director. The Port will not assist any user in the sale of prepaid space.

05.070 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. All costs of collection, including actual reasonable attorney and administrative fees, shall be paid by the delinquent user of the Port of Nome.

05.080 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.

CHAPTER 6 **DEFINITIONS**

06.005 Barge Ramp:

"Barge Ramp" shall include the boat launching area off of Port Road identified as Barge Ramp in the Port of Nome aerial photograph dated August 2011 (version v. 041213) on file with the City of Nome.

06.010 Berthing:

"Berthing" is the act of anchoring, tying up, mooring, securing, idling, grounding, dry-docking, 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 improvements including the barge ramp uplands and Small Boat Harbor property for a distance of fifty (50) feet back from that revetment along the uplands.

06.040 Cargo Handling Equipment:

"Cargo handling equipment" shall mean all equipment, gear and supplies transported to and/or from a vessel which is necessary for cargo handling at the Port of Nome and that: (a) is loaded or unloaded in Nome and (b) used exclusively for cargo handling at the Port of Nome. Equipment, gear and supplies that are used for cargo handling and for another purpose while offloaded in Nome are not "Cargo handling equipment".

06.045 Cargo Handling Permittee:

"Cargo Handling Permittee" is a person, firm or company that has been issued a permit to use the Port, and which is engaged in the business of handling cargo, equipment, fuel or gravel at the Port of Nome docks and facilities, whether in the capacity of a vessel or shore-side operator.

06.047 Causeway City Dock:

"Causeway City Dock" shall include the area on the southern end of the causeway identified as City Dock in the Port of Nome aerial photograph dated August 2011 (version v. 041514) on file with the City of Nome.

06.050 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 another 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.

06.060 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.

06.070 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.

06.080 Empty Containers:

"Empty Containers" qualifying for free wharfage are defined as containers being loaded or unloaded that have no contents and are owned by the carrying vessel.

06.085 Free-Time:

"Free-Time" is the specified period of time (seventy-two (72) 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.

06.090 Harbormaster:

The "Harbormaster" is the individual charged with directly supervising and facilitating all operations of the Nome Port & Harbor, including the use of uplands, facility services, and including the assessment of charges and required compliance contained within the Port of Nome Tariff Rules & Regulations; the Port Director's designee.

06.092 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, which operates out of the Nome Inner and Outer Harbors during the ice-free summer season.

06.095 Idle Vessel:

"Idle Vessel" is defined as a vessel in lay-up status or laying at rest on hard ground within the Port of Nome facility.

06.100 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, including the concrete barge ramp.

06.105 Inter-Facility Transfers:

The movement of cargo, equipment or fuel between facilities entirely within the Port of Nome property (excluding Cape Nome). Applies only to movements between the two facilities that are not loaded onto a vessel for shipment.

06.107 LOA or Length Over All:

The overall length of a watercraft measured from the most forward point at the stem (bow), to the after most part of the stern of the watercraft, to include the motor.

06.108 Nuisance Property:

"Nuisance property" means all personal property, including but not limited to machinery, equipment, gear, appliances, furniture, materials or parts, and Ship's Gear or Stores placed or stored on Port of Nome Facilities unless authorized by the Tariff or with the express permission of the Harbormaster, or property that otherwise constitutes a hazard and a hindrance to safe use of the Port of Nome.

06.110 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.

06.120 Over Stow:

"Over Stow" is defined as any cargo placed on the Port premises from common carrier or its agent, which is to be reloaded on a 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.

06.130 Port Director:

The "Port Director" is either the City Manager or such person designated by the Nome City Council

or the designee of the City Manager, consistent with existing Nome Ordinances governing the Port of Nome.

06.140 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 and navigable waters within the jurisdiction of the City of Nome.

06.150 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".

06.155 Production Film, Video, and/or Photography Crews:

A film, video and/or photography production crew is one or more people engaged in filming, video or digital taping, photography or recording on any medium in a commercial capacity or for profit.

06.160 Rafting:

When two or more boats tie alongside each other, specifically at a pier, wharf or dock.

06.162 Retail Marine Fuel Sale:

"Retail Marine Fuel Sale" refers to the transfer of non-cargo fuel, or fuel intended for use and/or consumption on the vessel, from a seller to a vessel.

06.165 Roadstead:

"Roadstead" shall include the navigable channel approach into the Port of Nome outer harbor where vessels transit in preparation for maneuvers into and away from the Causeway docks or Small Boat Harbor. No vessel shall anchor or sit idle in such a manner that obstructs the passage of any vessel transiting the approach into and out of the outer harbor.

06.170 Ship's Gear or Stores:

"Ship's Gear and Ship's 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.

06.173 Small Boat Harbor:

"Small Boat Harbor" shall include that area on the eastern entrance of the Snake River identified as Small Boat Harbor in the Port of Nome aerial photograph dated August 2011 (version v.041213) on file with the City of Nome.

06.175 Snake River Area:

The "Snake River area" means the area within the property of the Port of Nome designated by the Port Director/Harbormaster for use by small crafts and support vessels, located in and along the Snake River on the western side of the Port of Nome. The area extends from the corner of the MS 410 property, near the concrete launch ramp, to the armor stone at the end of Belmont Street, and up river to the City Limit boundary.

06.178 Support Vessel:

"Support vessel" is defined as any vessel which is used exclusively to provide assistance to another vessel by, for example, ferrying gear or persons to or from the main vessel, or to allow repairs, cleaning, and other services to occur on the main vessel.

06.179 Third Party Employers:

"Third Party Employers" refers to employers of all cargo, fuel, gravel, construction employees, service organization staff, vessel employees, longshoremen, stevedores, independent contractors, and all other non-City employees.

06.180 Through Cargo:

"Through Cargo" is defined as cargo that is transported into Nome for temporary staging, while awaiting shipment to destinations beyond Nome, and billed as over stow cargo. (See 06.120 Over-Stow)

06.190 Vessel - "Vessel" or "Vessels":

Shall mean any, ship, barge, LASH barge, SEABEE barge, tug, towboat, lighter, raft or other watercraft that is designed to float. All references to "VESSEL" or "VESSELS" in this tariff shall include, without exception, her owner, charterer, and agent.

06.195 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.

06.200 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.

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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.

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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.

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 or as directed by the Port Director.

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.

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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.

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) 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.

C) 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.

D) 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 and 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) 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.

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E) 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, except in open beach areas, designated as public.

B) No person may bring welding equipment or engage in welding activity on a dock without prior written authorization 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.

16.10 Sale or Solicitation of Goods or Services:

No person may sell or solicit the sale of goods or a service 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

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City of Nome including, but not limited to, all City of Nome Coastal Management regulations and the Port of Nome Tariff; 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) "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

E) "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.

F) "Vessel" -"Vessel" or "Vessels" shall mean any, ship, barge, LASH barge, SEABEE barge, tug, towboat, lighter, raft or other watercraft that is designed to float. All references to "VESSEL" or "VESSELS" in this tariff shall include, without exception, her owner, charter, and agent.

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

Port of Nome

July 20, 2015

