



# CITY OF SAINT PAUL ALASKA

## ORDINANCE 23-01

### AN ORDINANCE FOR THE CITY OF SAINT PAUL ADDING TO THE CITY CODE OF ORDINANCES CHAPTER 14.35 PASSENGER WHARFAGE FEES

WHEREAS, the City of Saint Paul, Alaska (City) owns, operates, and maintains the Saint Paul Harbor located on Saint Paul Island, Alaska; and,

WHEREAS, the City has established Title 14. Boat Harbor Facilities in the City Code of Ordinance for the purpose of protecting and preserving the lives, health, safety and well-being of the people of the City who have property in, or use or work upon the boats using the City's boat harbor facilities, or who make sales and deliveries of goods and merchandise to boats herein, or who use these facilities in the course of visits for commercial or pleasure purposes; to protect the property of such boat owners by regulating the harbor and its facilities of nuisances, fire, and health hazards; to make reasonable charges for the use of certain facilities to enable the City, insofar as possible, to pay the cost of maintenance, operation and supervision of the City's boat harbor facilities from the revenue derived therefrom; to consider all the provisions of this title as being liberally construed for the accomplishment of the purpose of promoting the general welfare; and to operate the boat harbor facilities upon a nonprofit basis; and,

WHEREAS, the City is usually the local sponsor for US Army Corps of Engineer projects to improve the Saint Paul Harbor and any Corps sponsored projects require a cash match from the local sponsor; and,

WHEREAS, the current harbor fees collected are not sufficient to adequately maintain existing harbor facilities within the Saint Paul Harbor; and,

WHEREAS, the City is paying the Corps for its share of the development of the Small Boat Harbor in the approximate amount of \$89,000 per year for the until the year 2049; and,

WHEREAS, the passenger wharfage fees collected will be placed in Fund 340, the City's Harbor Fund to use for maintenance on the harbor, payment on any debts related to the harbor, and match for grants for harbor upgrades and improvements; and,

Section 1. Classification. This ordinance amends existing provisions of the City's Code of Ordinances. Section 2 of this ordinance shall become a permanent part of the Code of Ordinances of the City of Saint Paul.

Section 2. Amendment. Be it ordained by the Council of the City of Saint Paul, Alaska, that the City Code of Ordinances be hereby amended by adding Chapter 14.35 Passenger Wharfage Fees as set forth in the following attachment.

Section 3. Severability. As provided in the City Code of Ordinances Chapter 1.05, Section 1.05.070 Severability, if any portion of this ordinance is subsequently found to be invalid, such invalidity shall not affect the other parts of this ordinance.

Section 4. Duration. This ordinance shall remain in effect until revised by the City Council in accordance with the procedures set forth in Chapter 1.05, Section 1.05.080, Amendments to the Code.

Section 5. Effective Date. This ordinance shall become effective immediately following its adoption by the City Council.

First reading: February 16, 2023

Second reading: March 14, 2023

Public hearing: March 14, 2023

PASSED AND ADOPTED BY APPROVAL OF THE COUNCIL OF THE CITY OF SAINT PAUL THIS 14<sup>TH</sup> DAY OF MARCH 2023 BY 4 IN FAVOR 0 OPPOSED AND 0 ABSTAIN.



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Jacob Merculief, Mayor

ATTEST:



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Aubrey Wegeleben, City Clerk

**Chapter 14.35**  
**PASSENGER WHARFAGE FEES**

**14.35.010 Definitions.**

The following definitions shall apply for purposes of this chapter:

“Agent” or “authorized agent” means the master or person in charge of the ship, or any other person authorized by the owner or operator of the ship to act on behalf of the owner or operator with respect to the ship.

“City manager” means the City Manager of the City of Saint Paul or a designee.

“Entry into any port” means anchoring or mooring and allowing passengers to embark or disembark.

“City” means the City of Saint Paul, Alaska, and includes all of the territory contained within a three nautical (geographical) mile perimeter and lying above the mean low water line surrounding St. Paul Island, Sea Lion Rock, Walrus Island, and Otter Island of the Pribilof Group at Latitude 57° 10'N. and Longitude 170° 15'W.

“Passenger” means any person who has paid any amount for a ticket or contract entitling that person to transportation aboard the ship. The term does not include:

- (a) The owner’s or operator’s employees or their immediate family members sharing their quarters;
- (b) The owner’s or operator’s contractors or subcontractors; or
- (c) Musicians, artists, guest speakers, art auctioneers, interpreters, rangers, or similar persons traveling without charge and providing passenger services for the ship’s owner or operator.

“Passenger manifest” means a document stating the total number of passengers aboard a ship at the time it enters or leaves the boundaries of the city.

“Passenger ship” or “ship” means a vessel carrying passengers for compensation.

“Person” means any individual, partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

“Visit” means an entry into a port or dock within the boundaries of the City more than 24 hours before or after another entry by the same ship, excluding visits for emergency purposes.

**14.35.020 Imposition of passenger wharfage fees.**

- (a) Upon each visit by a passenger ship docking at a city-owned or city-leased port facility, a passenger wharfage fee of \$12.00 per passenger shall be assessed.
- (b) Upon each visit by a passenger ship that lighters passengers to or from a wharf or port facility owned or leased by the City or any private entity, a passenger wharfage fee of \$10.00 per passenger shall be assessed.
- (c) Upon each visit by a passenger ship docking at wharf or port facility owned by a private entity, a passenger wharfage fee of \$8.00 per passenger shall be assessed.

**14.35.030 Calculation of fees.**

- (a) The total amount of passenger wharfage fees for each ship shall be calculated based on the passenger manifest upon arrival or departure, whichever is greater, for the ship upon its entry into or departure from any port within the City. Only one passenger wharfage fee shall be assessed per passenger per ship per visit.
- (b) Upon entry into or departure from any port within the city, the owner, operator, or authorized agent from each ship shall provide the City manager with a passenger manifest.
- (c) The City manager shall develop procedures in accordance with 14.35.070 for transmission of the passenger manifest from the owner, operator, or authorized agent to the City manager.

**14.35.040 Payment and deposit of fees and penalties.**

- (a) Passenger wharfage fees shall be paid by the owner, operator, or agent of the ship to the City within 25 days after the billing date in accordance with payment procedures established by the manager under 14.35.070. Such payment procedures shall provide for the payment of a penalty of five percent of fees due if not paid within 25 days.
- (b) All fees and penalties paid under this Chapter 14.35 shall be deposited in the Saint Paul harbor fund established by 14.25.010 and used exclusively for 1) the purposes put forth in that section.

**14.35.050 Protest of fees.**

- (a) An owner, operator or agent may protest the payment of the passenger wharfage fees charged under this chapter by paying the fees within the time established for payment of the fees and providing the City manager with a written statement of protest specifying the amount of fees paid and the basis for the protest. The City manager's decision regarding the protest shall be in writing and shall be a final decision. Such decision may be appealed to the superior court in the first judicial district for the State of Alaska.

**14.35.060 Exemptions.**

- (a) The passenger wharfage fees provided for in 14.35.020 shall not apply to:
  - (1) Ships without berths or overnight accommodations for passengers;
  - (2) Ships operated by entities described in Section 501(c) of the Internal Revenue Code of 1986, as amended; or
  - (3) Ships operated by a state or political subdivision of the state, the United States government, or a foreign government.
- (b) The burden of proving an exemption shall be on the person claiming the exemption. Persons claiming an exemption shall be required to obtain an exemption certificate from the City manager in accordance with procedures established by the manager under 14.35.070.

**14.35.070 Administration and enforcement.**

- (a) The city manager may adopt policies, procedures, rules and/or regulations to administer and enforce this chapter.
- (b) The city manager shall take all steps necessary and appropriate to administer and enforce this chapter including but not limited to establishing policies, procedures, rules and/or

regulations to administer and enforce this chapter, and conducting audits or examinations of the records and books of owners, operators, or agents of passenger ships.

#### **14.35.080 Record-keeping.**

(a) To facilitate the administration and enforcement of the provisions of this chapter, each owner, operator or agent of a ship subject to payment of fees under this chapter shall maintain and keep for a period of three years after the date of transmission to the City all of the passenger manifests, forms and supporting records, and any other books and records prescribed by the city manager in accordance with 14.35.070. Upon the request of the City manager, the owner, operator or agent of the passenger ship shall make available for examination in the City all such passenger manifests, books, records and other documents unless the manager authorizes the examination to be conducted at a different location.

#### **14.35.090 Use of passenger manifests by the city.**

(a) Except as otherwise provided herein or by applicable law, all passenger manifests transmitted to the City, obtained in the course of an audit, or otherwise by the City under this chapter, shall be kept confidential and shall not be subject to public inspection. Except upon court order, such manifests shall be made available only to employees, officials, attorneys and other representatives of the City whose responsibilities are directly related to such manifests; and to the person supplying such documents and information; as well as persons authorized in writing by the person supplying such documents and information.

(b) Notwithstanding subsection (a) of this section, the following information shall be made available to the public: the names of ships subject to payment of fees, whether or not the ship is current in payment of fees, the total fees due, and names of ships which have been issued an exemption certificate. The city manager may, from time to time, make public the names of the ships and owners, operators or agents delinquent in payment of fees and the amount thereof; provided, that the names of owners, operators or agents who have executed a confession of judgment for the delinquent fees and penalties, and who are current in their fee payments under such confession of judgment as of the date on which the names are made public, will not be made public. Information may also be made available to the public in the form of statistical reports if the identity of a particular passenger is not revealed by the reports.

(c) Notwithstanding subsection (a) of this section, the city manager may use the information in a manifest as reasonably necessary to respond to an emergency involving the ship that provided the manifest.

#### **14.35.100 Delinquency.**

(a) Whenever the city manager reasonably believes any ship has become delinquent in the payment of fees or penalties, the City manager shall mail to the owner, operator, or agent's last known address a written demand by certified mail, return receipt requested, for payment of such fees and penalties within 10 days of receipt of such written demand. In the event of noncompliance with such demand, the manager may prepare a passenger wharfage fee and penalty billing statement ("billing statement") for the delinquent ship, based on the ship's passenger manifest(s), or if such manifest(s) have not been provided to the city, any reasonable estimate of the passenger count during the period of delinquency. The billing statement shall be sent to the owner, operator or agent at the owner, operator, or agent's last known address by

certified mail, return receipt requested. The owner, operator or agent shall have a right to a hearing before the city manager at which time the owner, operator or agent shall make available for examination by the city manager the books, papers, records, and other documents pertaining to the fees or penalties for the period of delinquency. The owner, operator or agent may exercise the right to a hearing by delivering to the manager within 15 days of the date that the billing statement was mailed a written request for such a hearing. The manager shall establish a date and time for the hearing to be held within 10 days of receipt of the request unless a later time is mutually agreed to. The hearing shall be informal. At the hearing, the city manager may uphold the original billing statement or issue an amended billing statement based on the information received at the hearing. The amended billing statement, or the original billing statement if it is not amended by the city manager, shall be the final billing for the purpose of determining the amount owed to the city. If no timely request for a hearing is made, the original billing shall become the final billing.

(b) The City may file a civil action for collection of any fees and penalties due in the superior court for the first judicial district, State of Alaska.

(c) Whenever any owner, operator or agent fails to pay delinquent fees after notice is given as provided in subsection (a) of this section, the manager may require such owner, operator, or agent to pay fees immediately upon entry into a port or may deny the ship, or any lightering craft carrying passengers to or from such ship, berth or moorage at any City owned port until payment is received in full.

#### **14.35.110 Failure to provide passenger manifests.**

(a) Whenever the City manager does not receive a manifest, or whenever the city manager reasonably believes a manifest provided by a ship contains inaccurate information, the city manager shall mail to the owner, operator, or agent's last known address a written demand by certified mail, return receipt requested, for submission of the corrected or required manifest within 10 days of receipt of such written demand. The owner, operator or agent shall have the same hearing rights provided for in 14.35.100(a).

(b) In the event of noncompliance with such demand, the manager may take any lawful action to bring about compliance with such demand, including but not limited to denying the ship, or any lightering craft carrying passengers to or from such ship, berth or moorage at any City owned port until the ship has provided an accurate manifest.

(c) The City may also collect from the owner, operator, or agent of a ship all expenses that relate to the City's effort to bring about compliance with such a demand, including but not limited to:

- (1) Costs of bringing about compliance;
- (2) Attorney's fees and costs; and
- (3) Court costs.

#### **14.35.120 Liens and other costs.**

(a) The amount of delinquent fees and penalties shall constitute a lien on real and personal property of the owner, operator or agent of a ship.

(b) The City may also collect from the owner, operator, or agent of a ship all expenses that relate to the City's effort to collect, including but not limited to:

- (1) Costs of collection;
- (2) Attorney's fees and costs;
- (3) Recorder's fees; and
- (4) Court costs.

**14.35.130 Liability.**

(a) Any person violating any of the provisions of this chapter or failing or refusing to comply with a lawful request or demand of the manager authorized or made under this chapter shall be subject to the general penalty provision City Code of Ordinance Chapter 9.05 – City Offenses.