

PORT OF NEWPORT
ORDINANCE NO. 3, 1974

An Ordinance amending Ordinance No. 1, 1974, to prohibit commercial activities on Port properties or facilities or on watercraft moored in Port facilities and providing penalty for violation.

WHEREAS, The Port of Newport had adopted general ordinance No. 1, 1974, providing regulations for activities on Port of Newport facilities and;

WHEREAS, Said ordinance did not provide for regulation of commercial activities on Port of Newport property and facilities or on vessels moored at said facilities.

It is hereby ordained by the Port of Newport by and through its Board of Commissioners as follows:

1. Ordinance No. 1, 1974, is hereby amended as follows:

a. Commercial activity. Commercial Activity for the purposes of this ordinance shall mean any commercial or business activity or pursuit carried on as or in the course of a business, occupation or trade, and shall include soliciting, advertising, displaying, demonstrating, service, repair and sale, transfer or storage of fish, shellfish or fish products.

b. No person or business entity shall engage in or carry on any commercial activity on Port of Newport property or facilities, or in or upon any vessel moored at Port of Newport facilities.

c. This section shall not apply to: (1) *Installation of new equipment,* Normal maintenance and repair activities carried on or engaged in by the owners or operators or their agents of vessels moored at Port of Newport facilities so long as such maintenance or repair is performed on that individual's vessel, and so long as they comply with all other requirements of this ordinance. (2) Activities carried on by Lessees of the Port of Newport upon properties leased by the Port of Newport for terms of over five years.

2. Violation of this section shall be punished as Ordinance No. 1, 1974, provides.

3. The amendment to ordinance No. 1, 1974, shall be incorporated into Ordinance No. 1, 1974.

Adopted this ____ day of October, 1974

ATTEST

Secretary

President

Was not adopted

*Resolution by action taken
2/10/75*

*No Commercial
Clause at all
re our docks*

1. Use of Dock 6 and Hoist: The use of Dock 6 and/or the hoist on Dock 6 for other than allowable non-commercial uses shall be by authority of a permit issued by the Port.

No person shall use Dock 6 and/or the hoist for commercial purposes without first obtaining a permit for said use.

2. Classes of Permits: There shall be four classes or types of permits for the use of Dock 6 and/or the hoist. The classes of permits are as follows:

- a. Short Term: A short term permit shall authorize the non-exclusive use of Dock 6, and/or the hoist for not more than five (5) consecutive days.
- b. Long Term: A long term permit shall authorize the non-exclusive use of Dock 6, and/or the hoist for not more than 180 consecutive days.
- c. Intermittent: An intermittent permit shall authorize the non-exclusive use of Dock 6 and/or the hoist for not more than two (2) days per week or ten (10) days per month for a term of not more than 180 days.
- d. Emergency: An emergency permit shall authorize the non-exclusive use of Dock 6 and/or the hoist for such period as is necessary to meet the emergency, provided however that the permittee shall immediately make application for either a short-term or long-term permit whichever would be applicable. An emergency permit may not be issued for the purposes of transfer or sale of fish or shellfish occasioned by a stalemate, price negotiations or demands.

3. Authorization to grant or deny permits: The Port of Newport Staff or Commission may issue a permit for the non-exclusive use of Dock 6 and/or the Hoist on Dock 6 upon compliance with the requirements of this section and a showing that it would be in the best interests of the public and the Port to issue said permit. In granting a permit the Staff or Commission may attach conditions which it finds necessary to protect the interests of the parties and public.

4. Conditions for granting a permit: No permit shall be granted by the Staff or Commission unless it can be shown that all of the following conditions exist:

1. That there is a need to use said facility; and
2. That the need cannot be met by existing like facilities, or That the use of the other facilities would work an extreme hardship on the applicant, or That the cost of the use of the other facilities would be prohibitive; and

3. That the proposed use will not unduly interfere with existing permits or uses; and
4. That the proposed use will not adversely affect the environmental balance of the area, or have a detrimental effect on the appearance of the area, or cause or create any offensive odors or smell in and about the area; and
5. That the applicant can obtain all necessary permits, licenses and approvals to conduct such operation; and
6. That the proposed use will not create undue hardship on existing moorage holders or facilities; and
7. In the case of an Emergency Permit, that an actual emergency exists.

5. Application for permit: Application for a permit shall be made on forms furnished by the Port, and may be made by the person or business activity seeking the permit or his duly authorized agent. The application shall set forth answers to the conditions set forth above and further a description of the use applied for and the duration of said use.

Applications for short-term and intermittent permits shall be submitted to the Port of Newport at least 10 days before the proposed use. Applications for long-term permits shall be submitted at least 21 days before the regularly scheduled monthly Port meeting to allow sufficient time for processing of the application and publication and notice of public hearing on the application. Application for emergency permits shall be made as soon as the requirement for emergency use becomes apparent.

6. Processing and approval of permits:

- a. Short-term, Intermittent or Emergency permits: Upon receipt of an application for a short-term, intermittent or emergency permit, and the application fee, the Staff shall review the application for compliance with the conditions hereinabove set forth, and make an investigation as to statements set forth in the application and make a finding of fact as to the need for the permit. If, the Staff finds that the proposed use meets the criteria set forth above it may issue the permit. The permit must be approved or denied within 15 days of receipt of the application.
- b. Long-term permits: Upon receipt of an application for a long-term permit and the application fee, the Staff shall review the application for compliance with the conditions hereinabove set forth. If the applicant has complied with the conditions, the Staff shall cause the application to be placed on the agenda of the next monthly Port meeting and give notice by publication at least two times in the Newport-NewsTimes that a public hearing will be held on the application. The Staff shall investigate the proposed permit and make a written report and recommendation to the Commission at least 3 days prior to the date set for the public hearing. The public hearing shall be informal and

oral or written remonstrances may be presented before or at the time of the public hearing. If after the public hearing the Commission finds that the proposed use meets the criteria set forth above, it may issue the permit. The permit must be approved or denied within 5 days of the public hearing, and the public hearing may be continued only with the express approval of the applicant.

7. Application Fees:

- a. Short-term, Intermittent and Emergency: An application fee of \$25.00 shall be charged for the processing of each ST, I or E application and shall be paid at the time the application is submitted.
- b. Long-term: An application fee of \$50.00 shall be charged for the processing of each Long-term permit application and shall be paid at the time the application is submitted.
- c. Application fees are not refundable and shall not be applied toward the permit fee.

8. Permit Fees: Permit fees shall be based on the contemplated use of the facilities, however a minimum fee of \$5.00 per each day of use shall be charged. In the case of a permit to transfer fish or shell fish a poundage fee may be charged in addition to the minimum daily fee. The minimum daily fee shall be paid in advance on a monthly basis, and any additional fees within 7 days of the date which they are incurred unless otherwise provided in the permit.

9. Transferability: A permit shall be issued to a specific person or business entity for a specified purpose and shall not be transferred.

10. Nature of use and operation: Permits contemplated herein are for the non-exclusive use and operation of Dock 6 and/or the Hoist. The permit may provide for the operation of the hoist by the permittee and set forth conditions for the operation of the hoist.

The permit may extend the use to Dock 6, the Hoist, and sufficient additional lands necessary for the operation providing the facilities and/or lands are available for the use and would not unreasonably interfere with other uses on the parking or storage area.

11. Limitation on issuance: Consecutive short-term permits may not be issued except in the case of extreme emergency. Application for a renewal of a short-term permit may not be made during the original permit

period or made within 10 days of the expiration of the original permit.

12. Cancellation of permits: A permit may be cancelled at any time during its term for a breach of its terms or conditions, or if the use constitutes a danger or hazard to public health and safety or navigation, or if the permit was obtained by fraud or misrepresentation. The Permittee upon 30 days written notice to the Port may cancel his permit. Non-use of the facility does not relieve the Permittee of his obligations under the permit.