

**Port of Olympia Commission
Resolution No. 2009-13**

A Resolution of the Port of Olympia Commission authorizing proprietary-type user charges for Port goods and services.

WHEREAS, the Port Commission has adopted Resolution 99-22 “Omnibus User Fees” (as amended through executive order) which sets forth the rate and fee structure for the Port of Olympia; and

WHEREAS, the Port Commission has been advised by its General Legal Counsel that the price level for these user charges should be re-adopted formally before December, 2009 to clarify that they are in effect at this time; and

WHEREAS, the Port in 1999 conducted a series of public meetings and private meetings with its tenants and others to gather information about market rates charged throughout the area for all of its areas of business operations including: Marina, Boatworks, Airport, Marine Terminal, Land Rental, and other Business Operations; and

WHEREAS, the Port of Olympia is required by the laws of the State of Washington to charge and receive fair market value for the use of public property, and it is unlawful to make a gift of the use of public lands for private use; and

WHEREAS, the Port sets the price level for these charges by various means, including resolution by the Port Commission and administrative action by the Chief Executive Officer of the Port in order to achieve the required fair market value rate of return; and

WHEREAS, in compliance with Resolution 99-22, the Port’s Chief Executive Officer and Chief Financial Officer have completed and prepared the Executive Order attached hereto setting forth the current rates and fees all in accordance with Resolution 99-22; and

WHEREAS, the Port changes these price levels from time to time as required by changes in the market conditions of its various business units, to keep charges at a lawful market rate.

WHEREAS, the Port has investigated all fees and charges for use of Port property, and reports its findings as follows:

The Port Commission hereby finds that the proprietary-type user charges for Port goods and services are not “taxes and fees” as defined in State Law.

The Port Commission hereby further finds that, based on advice of its General Legal Counsel, it is prudent to set out its proprietary type user charges in the form of a resolution adopted before the end of the year 2010.

The Port Commission hereby further finds that, based on public meetings and private meetings with its tenants and others, it should adjust certain proprietary type user charges to reflect the current market price levels for these goods and services.

The Port Commission hereby further finds that those proprietary type user charges that have historically been set by Commission Resolution shall continue to be set by Commission Resolution. Those proprietary type user charges include: Marina and guest dock charges, Boatworks charges, Airport hangar charges, Port Plaza Rental charges, and the Property lease rate and surety formulae.

The Port Commission hereby further finds that those proprietary type user charges that have been historically set by the Chief Executive Officer of the Port shall continue to be set by the Chief Executive Officer of the Port. Those fees include, but are not limited to: Tent rental charge, Equipment rental charges (by hour or other means) in all business units, Marine Terminal Tariff charges, Marine Terminal contract rates, Airport fuel flowage rate and license fee, Airport landing fee formula, Airport apron charge, Lease Modification Fee and any other proprietary type user charges not specifically set by the Port Commission in this resolution.

The Port Commission hereby further finds that price levels change from time to time based on general economic factors and the increase in land values in Thurston County. Over the past twenty year period, the rate of price increase in the relevant market has exceeded the rate of increase in the general consumer price index for the United States by approximately three percent (3%). The Port Commission finds that the rate of increase in the market is linked to the increase in land values as well as the increase in consumer price levels.

The Port Commission hereby further finds that, based on the advice of its General Legal Counsel, it is prudent to set an adjustment factor for future periods in order to ensure that the Port can continue to receive a fair market rate of return on its public property within the relevant economic market.

The Port Commission hereby further finds that, in order to receive a fair market value rate of return, the adjustment factor for all proprietary type user fees other than Labor Rates, Real Property Lease Rates, Maintenance and Other Services, shall be equal to the Consumer Price Index for the United States (as published by the United States Department of Labor for all urban consumers) plus 3 percentage points per year, however, the annual increase of these charges shall not exceed 10.0% per year. For all Labor Rates, Maintenance and Other Services, the adjustment factor shall be equal to the actual increase in wages, benefits, and personnel related charges or CPI plus 3%, whichever is higher.

The Port Commission hereby finds that the Chief Executive Officer of the Port shall have the power to waive completely or lower, but not raise, the adjustment factor for any one particular or for all proprietary type user charges in any year to the amount necessary to meet the price levels in the relevant market and to ensure a fair market value rate of return on Port property.

The Port Commission hereby further finds that the adjustment in the price level for its proprietary type user charges shall be effective in the first monthly period after the end of each calendar year beginning with the end of the year 2009 and continuing until this Resolution is superseded by a subsequent Resolution.

The Port Commission hereby further finds the charges shown on the ***Schedule of Proprietary Type User Charges***, attached hereto (as an attachment to the Executive Order of November 23, 2009) and incorporated herein by reference, to be the actual charges for Port provided goods and services either already in effect or to become effective upon adoption of this Resolution.

NOW, THEREFORE, IT IS RESOLVED by the Port of Olympia Commission as follows:

1. The rates and charges set forth in the Executive Order of November 23, 2009, which is attached hereto, including automatic periodic adjustments of the rates as provided herein, are the rates and charges for use of Port property and services unless modified consistent with the requirements of this Resolution or Washington law.
2. For lease agreements with terms longer than one year, automatic adjustments shall be made on the third anniversary date of the agreement as specified in Commission Resolution 2006-12 (Olympia Regional Airport, NewMarket Industrial Campus) and 2007-16 (Market District, NorthPoint and State Avenue District (East Bay)) or in accordance with the signed lease agreement. For lease agreements with month-to-month terms or with terms shorter than one year, as well as all other proprietary user charges and for published tariffs, adjustments shall be made on January 1 of each year or in accordance with the signed lease agreement.
 - A. All proprietary type user fees and lease fees and rates shall be automatically adjusted each year to reflect inflationary and market increases which have occurred since the previous rate adjustment as partially measured by the Consumer Price Index for All Urban Consumers (or successor index or reasonable substitute if no successor index is readily available). Inflationary and market cost adjustments for all proprietary charges, except those based on labor rates, shall be calculated as the average annual change in the index plus three percentage points. All adjustments shall be rounded to the nearest 5 cents for ease of administration, unless otherwise specified in Appendix A. For all Port rates and charges based on Labor rates, the rate shown in Appendix A may be increased by the actual

increase in wages, benefits and other personnel assessments, or increased, banked or partially banked by the CPI plus three percentage points (as described above), whichever is higher. Any automatic adjustment may be reduced or waived by the Chief Executive Officer of the Port if such adjustment would result in a market imbalance or would otherwise be detrimental to the interests of the Port.

- B. The new rates and user charges schedule shall be published by the Port Chief Financial Officer on the Fourth Monday of November each year, and shall be effective for the first term beginning after the close of each calendar year. In most cases, the new charges will be effective beginning in the month of January in the subsequent year.
 - C. For all Port property lease charges, the lease shall contain a periodic revision clause to assure the Port continues to receive a fair market value return over the term of the lease. Where no specific written provision is included in the lease, the requirements of Section 2 shall apply.
 - D. Any applicable annual increase shall apply to such charges whether initially set by the Port Commission or by the Chief Executive Officer of the Port without any further action being taken by the Port Commission or by the Chief Executive Officer of the Port.
- 3. If proprietary type user fees, including labor fees or rates, or lease fees or rates are determined to be invalid for any reason, or are not included in Appendix A of this resolution, or are otherwise unavailable, then, consistent with the Port's constitutional requirement to not extend credit and to receive a reasonable rate of return on its services and property, the invalidated or unavailable rate or rates shall be a 15% annual rate of return on the Fair Market Value as determined by an MAI appraiser.
 - 4. If any provision of this resolution is found to be invalid for any reason or void by any operation of law, then the remaining parts shall be and remain in effect unless superseded by a subsequent resolution.

This resolution shall become effective immediately upon its adoption.

ADOPTED by the Port of Olympia Commission at a regular meeting thereof held this 23rd day of November, 2009.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary

**Executive Order Setting Rates and Fees for Proprietary-Type User Charges
For Port Goods & Services in 2010 Pursuant to Commission Resolution 99-22
*Attachment to Resolution 2009-13***

The Port Commission has instructed the Port to set rates and fees based upon 2009 fee levels, increased by the rate of inflation plus 3%. The Port Commission has given the Chief Executive of the Port the responsibility to determine whether any reduction in the increase so determined is warranted to meet market conditions.

In Resolution 99-22, the Port Commission stated:

“For all Port rates and charges based on a dollar sum the rates shown in Appendix A shall be increased by the percentage change in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor plus three percentage points, or ten percent, whichever is less, each year. The percentage change shall be calculated for the period October 1 to October 1 each year.”

“Such adjustments may be reduced by the Chief Executive Officer of the Port in order to meet the market prices in the relevant economic market.”

“The new rates and user charges schedule shall be published by the Port Auditor on the Third Monday of November each year, and shall be effective for the first term beginning after the close of each calendar year. In most cases, the new charges will be effective beginning in the month of January in the subsequent year....”

“...This annual increase shall apply to such charges whether set by the Port Commission or by the Chief Executive Officer of the Port without any further action being taken by the Port Commission or by the Chief Executive Officer of the Port.”

The Port Chief Financial Officer has certified to the Chief Executive Officer of the Port that the appropriate inflation measure for the year indicated is 0.2%. Therefore, the base rate adjustment for 2010 is equal to 3.2%.

Pursuant to the authority to reduce adjustments delegated above, the Chief Executive Officer of the Port finds as follows:

1. The Marina line of business has considerable local market competition. The Port's Marina would probably suffer a loss of business volume if the full 3.2% price increase were imposed on all slip sizes. Rate increases have been established based on market and vary depending on the vessel size.
2. The Boatworks facility has limited, but substantial regional competition for this type of service. The Boatworks and its associated repair tenants and concessionaires may suffer a loss of business volume if the full 3.2% price increase were imposed. Rate increases have been established and revised based on market and vary depending on vessel size.
3. Based on a recent market survey, the airport hangar rental rate is at or slightly below the market average. This market is not experiencing any stress as indicated by low vacancy rates at the Airport.
4. The Property land leasing business has considerable local competition in the form of land sales for development purposes. The Property building rental line of business has considerable local competition. Property rates were established in compliance with Resolutions 2006-12 and 2007-16 establishing guidelines, a Market Rate Schedule and procedures for the Port of Olympia lease policy for vacant Port properties.
5. The Marine Terminal business is primarily conducted using tariff rates. However, the tariff is widely published and is in direct competition with other tariffs of other Puget Sound Marine Terminals. Presently, the tariff rates at Olympia are in line with those at other comparable ports.

Based on the Findings above, the Chief Executive Officer of the Port has determined that the base 3.2% increase shall be maintained in full, reduced, or entirely deferred to future years, as shown on the chart on the next page. The unused increase shall, to the extent allowable by law, be carried forward and may be imposed using a compound factor as if it had been imposed in its entirety in 2010 or thereafter. THE DETAILED “SCHEDULE OF PROPRIETARY TYPE

USER CHARGES,” SHALL BE THE ACTUAL RATE CHARGED, AND THE CHART ON THE NEXT PAGE IS INTENDED TO BE A SUMMARY ONLY.

The following chart summarizes the decision of the Chief Executive Officer of the Port regarding rate increases and deferrals for 2010:

Schedule of Proprietary Type User Charges - Marina Effective 1/1/2010

Marina Charges

Lengths shown in Appendix A are the boat length or the slip size whichever is longer.

“Long-Term” Moorage – amounts include leasehold excise tax

Base Rate

Rate for 20-28 Ft Slip	\$6.50 per foot per month
Rate for 32-36 Ft. Slip	\$7.50 per foot per month
Rate for 40-44 Ft. Slip	\$7.90 per foot per month
Rate for 50 Ft. Slip	\$8.20 per foot per month
Rate for over 50 Ft. Slip	\$8.55 per foot per month

Live Aboard Charge & Limits

\$55.00 per vessel per month
\$29.00 per vessel per month if the boat is equipped with an approved system for waste disposal

Utilities Charges

Rate	As metered or allocated, <i>not subject to leasehold tax</i> \$3.50 monthly fee plus actual usage for metered slips \$20.00 flat monthly fee for non-metered slips, <i>leasehold excise tax included</i>
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Guest Moorage

Rate	\$15.00 per day for all vessels up to 20 ft. in length \$0.70 per foot in excess of 20 ft. per day
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Plaza Moorage

Rate	\$8.00 per day for all vessels up to 20 ft. in length \$0.30 per foot in excess of 20 ft. per day
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Launch Ramp Charge

Rate – General Public (recreational)	\$5.00 per launch, haul is free
Rate – Annual (recreational)	\$50.00 unlimited launches for one year
Rate – Commercial Operator	\$50.00 per launch, haul is free (unless required to use the Boatworks facility by the Port)

Dry Storage

Rate	\$80.00 per month per vessel or space, <i>tax included</i>
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Parking

Non-Tenant Rate	\$3.00 per day
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Labor, Maintenance & Other Service

Rate	\$55.00 per labor-hour
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Other Charges

Delinquency, Sale & Impound Fee	\$75 plus actual costs incurred by the Port
Tent rental charge	\$75 per tent per three day period
Charter boats – daily rate	\$1.00 per foot per day

Schedule of Proprietary Type User Charges - Boatworks Effective 1/1/2010

Boatworks Charges

Haulout & Launch

Up to 32 ft. vessel	\$6.97 per ft. per haul & launch
32 – 39 ft. vessel	\$7.64 per ft. per haul & launch
40 – 49 ft. vessel	\$8.30 per ft. per haul & launch
50 – 59 ft. vessel	\$9.33 per ft. per haul & launch
over 59 ft. vessel	\$9.94 per ft. per haul & launch

Above includes hauling, blocking & launching. No lay time charge on the day of haul out. Includes electricity, compressed air, on-site parking, garbage & recycling services while in the yard.

One-Way Haul & Launch (Minimum \$100 charge)

Up to 32 ft. vessel	\$4.56 per ft. per haul
32 – 39 ft. vessel	\$5.18 per ft. per haul
40 – 49 ft. vessel	\$5.84 per ft. per haul
50 – 59 ft. vessel	\$6.82 per ft. per haul
over 60 ft. vessel	\$7.43 per ft. per haul

Above includes up to two hours in the slings.

Additional Time in Slings	\$150.00 per hour or part thereof
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Pressure Wash Bottom

Rate	\$2.50 per foot
Additional Charge	\$55.00 per hour for time spent removing excessive growth or for special bottom preparation

Hazardous Waste Fee

Rate	\$30.00 per vessel per time in the yard
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Laytime

First Seven Days	\$0.75 per foot per day
Additional Days	\$1.00 per foot per day

Winter Long Term Storage

Available October through March	\$7.25 per foot per month as available
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Mast Storage

Daily Rate \$3.00 per day

Labor Rates

General Labor \$55.00 per hour
Forklift \$75.00 per hour, ½ hour minimum
Crane/Travelift \$150.00 per hour, ½ hour minimum
Delinquency Fee & Impound Fee \$75.00 plus actual costs incurred by the Port

Port Plaza Rental Charges Non-Profit organization -- \$50 per 8 hour use
For Profit organization -- \$100 per 8 hour use

Labor, Maintenance & Other Services \$55.00 per labor-hour

Schedule of Proprietary Type User Charges – Airport Effective 1/1/2010

Airport Charges

“Long-Term” Space Rental – amounts include leasehold excise tax
Open Hangar Plane Ports 40 x 28 ft. \$180.85 per hangar per month
T-Hangars 40 x 32 ft. \$232.20 per hangar per month
T-Hangars 45 x 40 ft. \$336.05 per hangar per month
Executive Hangars 60 x 46 ft. \$576.20 per hangar per month
Tie-Downs, Large \$73.90 per tie-down per month
Tie-Downs, Small \$45.60 per tie-down per month
G-Storage \$179.40 per space per month
E-2 Hangar with office & storage \$681.80 per hangar per month

“Short-Term Space Rental – amounts include leasehold excise tax
Open Hangar Plan Ports \$10 daily
T-Hangars \$25 daily
Executive Hangars \$30 daily

Fuel Flowage
Rate \$0.07 per gallon Licensed dealer for FBO line service
Rate \$0.14 per gallon Other
Fuel Farm Pad License Fee \$1,000 per year

Landing Fees
Aircraft 12,500 lbs & greater \$1.00 per 1,000 pounds maximum certificated landing weight for aircraft 12,500 lbs or greater (\$12.50 minimum)

Apron Fees – Commercial Aviation/Itinerant

Gross Weight Daily
0 to 12,000 lbs. \$ 3.65
12,001 to 26,000 lbs. \$ 5.50
26,001 to 54,000 lbs. \$ 7.95
54,001 to 117,000 lbs. \$11.05

Key and Security Cards

Key Deposit \$20 (refundable when key returned)
Security Card Deposit \$20 (refundable when card returned)

Security Card Replacement	\$20
Hangar Waiting List Rate	\$100 (applicable towards deposit)
Commercial Aeronautical Activity License	\$250 Minimum
Aircraft Impound Fee	\$75
Other Rates	
Lift truck	\$60 per hour – one half hour minimum

**Schedule of Proprietary Type User Charges – Marine Terminal
Effective 1/1/2010**

Marine Terminal Charges	
Basic Rate	Port of Olympia Marine Terminal Tariff as published on the 31 st of December, 2005 or as amended
Other Rates	As negotiated with terminal customers

**Schedule of Proprietary Type User Charges - Properties
Effective 1/1/2010**

Property Lease Charges

Rents (for districts as defined in the Port's Comprehensive Plan)

Ground Rent – Airport	\$.27 per square foot per year
Ground Rent per year – NewMarket (Industrial)	6.25% x Fair Market Value of Property
Ground Rent per year – NewMarket (Mixed Use)	6.75% x Fair Market Value of Property
Ground Rent per year – NewMarket (Boulevard/Corporate Campus)	7.25% x Fair Market Value of Property
Ground Rent per year – Swantown Properties	7.6% x Fair Market Value of Property
Ground Rent per year – NorthPoint	8.25% x Fair Market Value of Property
Ground Rent per year – Market District	8.50% x Fair Market Value of Property
Ground Rent per year – East Bay	8.00% x Fair Market Value of Property

Space Rent Determined by MAI appraiser based on fair market rents, not less than \$250 per month.

Short-Term Ground Rent Not less than \$250 per month, value calculated same as Ground Rent above.

Percentage Rents For retail tenants, per Commission Resolution 95-04.

Surety Requirements

Ground lease over one year	One year's rent
Month-to-month ground lease	Three month's rent
Space lease month-to-month	Three month's rent
Space lease over one year	One year's rent
Public agency as lessee	None

Option Payments 10% of initial ground rent determined as above

Service & Other Charges

CAM Charge	15% of charges
Pro-Rata Charges	100% of eligible utility-type charges as allocated
Late charges	12% per annum or 2% over prime rate, whichever is more
Holding Over	Four times rent in lease

Lease reinstatement	\$250.00 for leases restored after default
Insurance Premiums	100% of allocated premiums as negotiated, plus 100% of any increase in the Port's direct insurance costs Caused by tenant's activities on leased property
Fees and Taxes	100% of all fees and taxes imposed by another Jurisdiction
Audit Costs	100% of cost of auditing tenant's books as required by Lease
Tenant Improvements	100% of cost of all Tenant improvements paid for by Port, plus 12% ROI, depending on the term of the lease
Maintenance & Costs	100% of actual costs incurred by the Port plus 12% per Annum interest
Payments by Port	100% of all money paid on tenant's behalf, plus 12% per annum interest
Interest Charges	For late payments and any other money owed the Port by a tenant – 12% per annum or 2% over prime rate, whichever is more
SEPA Appeal Fee	\$300
Lease Modification Fee	The Port's reasonable and customary attorneys' fees shall be paid by Tenant to Port to accommodate Tenant changes to the lease. Lease modification fee shall not be less than \$300.00.

Schedule of Proprietary Type User Charges Effective 1/1/2010

Foreign Trade Zone Charges

Application Fees

Minor Boundary Modification	\$2,500
Major Boundary Modification	\$5,000
Manufacturing/Processing	\$2,500
Sub-Zones	\$5,000

Activation Fee \$2,500

Deactivation Fee \$2,500

Annual Administration Fee

General Purpose Site	\$2,500
Sub-Zone	\$5,000

Port of Olympia Economic Development Corporation Fees

Application for Industrial Revenue Bond \$750

On Bond Issuance $\frac{1}{4}$ of 1% of the principal amount of the bond issue

Port Event– Fees **Rate**

Boat for sale on land – private	\$25
Boat for sale on land – commercial	\$25
Booth on Land – private	\$25
Booth on Land – commercial	\$25
Boat for sale on water	\$25
Mug & Token Charge	\$5
Token Only	\$5

Administrative Fees

Copies	\$0.15 page
CD's	\$2.50

DVD's	\$10.00
8x11 Color	\$0.50
11x17 Color	\$1.00
Other Documents	100% Cost

Adopted and Approved by:

Chief Executive Officer of the Port of Olympia on November 23, 2009