

## ORDINANCE NO. 2013-04

AN ORDINANCE AMENDING THE CITY OF PORT ARANSAS CODE OF ORDINANCES CHAPTER 18 “PUBLIC PLACES, PROPERTY AND SERVICES”, ARTICLE VI. “MUNICIPAL HARBORS” BY PROVIDING GENERAL HOUSEKEEPING OF SAID ARTICLE INCLUDING ADDING DEFINITIONS, SETTING PARKING, LIVE-ABOARD, HAZARDOUS MATERIALS, AND COMMERCIAL ACTIVITY RULES/REGULATIONS; DELETION OF PROVISIONS NOT APPLICABLE; PROHIBITING REPAIR OF BOATS AND TRAILERS IN HARBOR; PROVIDING FOR THE VALIDITY OF SAID ORDINANCE; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, NUECES COUNTY, STATE OF TEXAS

### SECTION 1. AMENDMENT

That Chapter 18 “Public Places, Property and Services”, Article IV “Municipal Harbor”, is amended as follows, deletions being shown by interlineation and additions by underlining:

#### **Sec. 18-166. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Boat slips* means the area bound by four (4) or more tie pilings including one-half of an adjacent catwalk as designated on the harbor department slip chart which is on file in the harbor master’s office.

*Charter boat* means a vessel of which the primary function is to be hired out for fishing or other recreational activities by its owner.

*Commercial Marine Service* is defined to include but not limited to marine construction, vessel assistance, commercial diving, marine salvage, and marine service vessels.

*Commercial Docks* are defined as the slips within the municipal harbor reserved for the sole use of commercial vessels.

*Commercial Vessel* is defined as any vessel who is primarily engaged in commercial fishing or marine service work. Charter boats are expressly excluded from this definition.

*Fees* refer to the rates and rental fees to be charged for the use of boat slips and boat space in the Dennis Dryer Municipal Harbor.

*Harbor master* means that department head appointed by the city manager in charge of and having all supervisory powers of the Dennis Dryer Municipal Harbor and all catwalks, piers, parking areas and structures situated therein and as such shall perform all of the duties and responsibilities required of him by the laws of the state and the United States and the ordinances of the city and such other functions, duties and powers as may be assigned to him by the city manager.

*Live-Aboard Vessel* means any vessel used solely as a residence or a vessel where a person sleeps aboard the vessel more than fifteen (15) days in any thirty (30) day period. Live-aboard authorization shall be on a pre-approval basis through applications at the harbor master's office. Commercial fishing vessels are excluded from the definition "live-aboard".

*Municipal harbor* is defined as that body of water and its watercraft facilities, streets and property and all other areas confined within the following boundaries:

*Said area being 49.15 acres of land lying along the north shore of Mustang Island, Nueces County, Texas, within the city limits of Port Aransas, Texas. Said tract lies east of the right-of-way of Cotter Street leading to the ferry landing, north of the Port Aransas Canal, west of the federal authorized and dredged Turtle Cove and basin, and south of the Port Aransas - Corpus Christi ship channel, all being a portion of the lands patented by the State of Texas to Nueces County Navigation District No. 1 by patent No. 217, dated January 24, 1950.*

*Pleasure boat* means a vessel utilized primarily for the recreational activities of its owner(s) and not being for hire.

**Sec. 18-170. Discharges into harbor.**

No person shall throw, discharge or deposit any oil, flammable liquids or refuse of any kind into the harbor. No oily bilges shall be pumped within the municipal harbor.

**Sec. 18-173. Junk or debris on docks, piers, and catwalks.**

No junk or other debris shall be placed on any dock, pier, or catwalk in the municipal harbor or other premises in the municipal harbor without the express sanction of the ~~city~~ harbor master. Piers, catwalks, and docks shall be kept clear of obstructions at all times.

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**Sec. 18- 175. Overnight camping.**

No overnight camping is permitted on any dock or land in or along the municipal harbor.

**Sec. 18-176. Vehicle parking.**

All vehicle parking shall be in the areas prescribed and marked in the municipal harbor. No cars or boat trailers shall be parked in a manner or position which will hinder the normal flow of traffic through the municipal harbor. See additional parking regulations in this Article.

**Sec. 18-177. Anchoring and operation of vessels.**

No vessel shall be anchored, moored, or operated the municipal harbor in such place or manner as will obstruct navigation or boat traffic or create a potential hazard.

**Sec. 18-178. Charter passengers.**

No boat or vessel shall at any time pick up or unload charter passengers or any cargo for hire from, on or along the city docks or bulkheads maintained by the city in the municipal harbor. The policy of the city is that any boat docked or leased in a city maintained slip will not operate or use the city docks or bulkheads maintained by the city for any commercial chartering enterprise. The Boatman's Dock and ramp area shall be exempt from this ordinance.

**Sec. 18-179. Construction or alterations.**

No construction or alterations to any electric, mechanical, plumbing, docks or catwalks shall be allowed without prior approval of the harbor master. Any individual seeking to construct, repair or in any way change or make an addition to the city docks must receive a permit from the ~~city~~ harbor master and if such construction warrants, a permit from the city building official.

**Sec. 18-180. Connections to water system.**

No person shall connect to the water system in the municipal harbor without the prior permission of the harbor master.

**Sec. 18-181. Connection to electrical outlets.**

No person shall connect to the electrical outlets in the municipal harbor without the prior permission of the harbor master.

**Sec. 18-182. Hazardous materials.**

- a) Acids, oils and empty gasoline or distillate drums must be removed from the docks at once. The storage, keeping or use of gasoline, distillate or other liquid petroleum products in bulk on the property under the control of the city in the municipal harbor is strictly prohibited.
- b) Articles classified as explosives or dangerous by the U.S. Coast Guard shall not be permitted in the municipal harbor without prior written permission of the harbor master.

**Sec. 18-183. Parking of boats, trailers, vehicles or equipment and maintenance limitations.**

- a) It shall be unlawful for any person to leave or cause to be left, any equipment or vehicle, other than passenger vehicles, upon the land areas/parking areas of the municipal harbor for more than twenty-four (24) continuous hours except by written permission given by the harbor master. Work in progress requiring any equipment or vehicle shall not be considered a reason for granting such permission.
- b) It shall be unlawful for any person to leave or cause to be left, any boat, trailer, and/or passenger vehicle, upon the land areas/parking areas of the municipal harbor for more than five (5) days except by written permission given by the ~~city~~ harbor master. After five (5) days a fee established in the most recent municipal harbor rate schedule will be paid for each additional day or part thereof. Live-aboard tenants shall be exempt from this ordinance only during actual occupancy of their live-aboard vessel; however, live-aboard tenants shall be restricted to one (1) vehicle per live-aboard tenant with a maximum of two (2) vehicles per live-aboard vessel.
- c) Any boat, trailer, vehicle, or equipment, parked, left, used or operated in violation of any section of this article is a nuisance and shall be removed and disposed of by the ~~city~~ harbor master at the sole expense of the owner.

**Sec. 18-184. Repairing boats and trailers.**

No person shall make any repairs to any boat or trailer within the municipal harbor, except minor repairs, without the written permission of the harbor master.

- a) Paint, finish products or solvents. No paint, finish products or solvents shall be disposed of on the ground at the municipal harbor, or in or upon any place, or in any manner violating any applicable federal, state, county, or other city ordinance.
- b) Sand blasting. Sand blasting is prohibited within the municipal harbor.
- c) Area cleanup. Prior to removal of a boat or trailer from the repair area, all trash, including paint cans, brushes, rollers, trays, wood, construction debris and other materials shall be removed

from the work site.

- d) Repair will not include any exposed exterior application of paint or other finish products by means of any spray equipment, removal of bottom paint, or work exceeding the allowed number of work days as granted by the harbor master.

**Sec. 18-185. Commercial docks.**

Commercial docks will be leased through the harbor master's office. The harbor master will ensure that each slip available for commercial vessels are systematically numbered thus enabling the harbor master to assign a number for the slip to a specific lessee. Commercial business operations from a slip shall comply with this Article.

**Sec. 18-186. Access to city water lines.**

Any person leasing a designated commercial dock from the city in the municipal harbor has access to city furnished water lines. The person leasing the commercial docks will be required to pay a fee to be set by city council by resolution per month for water services.

**Sec. 18-187. Commercial dock leasing rate.**

Commercial docks in the municipal harbor will be leased on monthly, semi-annual, or annual basis at a rate to be set by city council by resolution per month per slip. Only authorized boats will be allowed to dock on or at the commercial docks.

**Sec. 18-188. Slip assignment, use, rentals, and fees; lien and restraint of any boat, vessel, or other property.**

Only vessels in good and seaworthy condition with current state/federal vessels registration will be admitted into and allowed to register for slip use (permanent or temporary). All vessel owners or captains must have a slip reservation and/or immediately report to the harbor master's office upon arrival for registration, slip assignment and payment prior to occupying a marina slip. Owners shall not change slips without permission from the harbor master's office. The marina slip waiting list will be used to fill all slip vacancies, the list being on file in the harbor master's office.

- a) The rates for slip rentals within the municipal harbor and other fees for use of harbor space and facilities are contained on the attached municipal harbor rate schedule which is made part of this Code. Such rate schedule shall be on file in the harbor master's office and may be amended from time to time by council resolution.
- b) The city reserves the right to terminate any lease or license of any person who violates any provision of this article. Such termination of a lease or license shall normally be subject to a twenty-four hour notice unless the city manager has determined that the violation warrants immediate termination.
- c) Any person owning or operating any boat or vessel or other property which is subject to payment of any rental or other charges shall be liable for payment of such charges and the city shall have a lien upon such boat or vessel or other property, and all parts and equipment for all charges due the city.
- d) The city shall have the right and the power consistent with admiralty law, or other law, as applicable to restrain the movement of any boat, vessel, or other property occupying or utilizing any berth, slip, or other water or land area in the municipal harbor area without having paid the rent or other charge in advance. The city may use chains or any device as its agents may seem proper, fit and necessary to restrain the movement of any such boat, vessel, or other property. No cause of action shall accrue to any person against the city or any city employee or agent for the restraining of the movement or the manner of restraining the movement of any boat, vessel or other property

as authorized in this section. No person shall break, tamper with, destroy or remove the chain or other device by which any boat, vessel or other property has been restrained from moving under the provisions of this section without having first obtained written permission from the city.

**Sec. 18-189. Dock charges.**

- a) Dockage charges shall be applied to vessels moored to any property of the Dennis Dryer Municipal Harbor or which are moored to a vessel so berthed.
- b) The schedule of docking charges within the municipal harbor is on file in the harbor master's office.

**Sec. 18-190. Privately owned cranes.**

- a) Users of privately owned cranes in, on and around the municipal harbor shall be held responsible for damage to any property caused by the use of such cranes.
- b) The rates and charges to be made for the use of privately owned cranes in, on and around the municipal harbor are on file in the city secretary's office.

**Sec. 18-191. Permits required for commercial activity; regulations.**

- a) No person shall solicit business or sell, rent or offer for sale or rent any goods or service whatsoever from, in or on the Port Aransas marina or docks, except pursuant to a permit issued in accordance with (b) and/or (c) below.
- b) The city manager is authorized to issue written permits to commercial boat owners who have assigned slips in the Port Aransas marina allowing the sale of fresh seafood; provided that no such permit shall be issued except under the following terms and conditions:
  - (1) The cost of such permit shall be set by city council by resolution and the term shall be one (1) year.
  - (2) Sale of fresh must comply with federal, state and local laws, rules and regulations governing seafood or perishable commodity sales. Prior to the issuance of any permit under this section, the applicant therefore shall obtain a food handlers permit for such activity as issued by Nueces County Health Department.
  - (3) All seafood sold from commercial boats in the marina must:
    - a. Be sold only from the boat within the assigned slip or berthing site designated by the city;
    - b. Have been caught no more than forty-eight (48) hours before it is offered for sale;
    - c. Be sold only from the commercial boat that caught the seafood and must be sold within the assigned slip or berthing space assigned;
    - d. Be sold only by the licensed commercial fisherman that engaged in the actual taking of the catch;
    - e. Remain at all times on the boat that caught the seafood; and
    - f. Be removed from that commercial boat at the end of the forty-eight-hour period.
  - (4) Any seafood removed from a commercial boat may not:
    - a. Be placed back on the boat from which it was caught (removed); or
    - b. Be placed on another commercial boat within the marina.
  - (5) Seafood brought to the marina and placed on any boat is prohibited from being sold at the marina. The marina personnel and/or enforcement personnel retain the right to inspect any and all ice chests, food containers, or seafood boxes being placed on a licensed commercial boat vessel.
  - (6) Signs advertising commercial seafood sales. All vessels shall be subject to the following regulations concerning signs advertising such vessels:

- a. There shall be no more than one (1) signboard referring to any boat;
  - b. Such signboard may be painted and may contain a sign on one (1) or both sides;
  - c. No signboard shall exceed two (2) feet in height nor exceed two (2) feet in width;
  - d. Such signboard shall be erected, maintained and/or displayed only onboard the vessel;
  - e. No such signboard shall be erected or displayed on existing structures, piers, or gear boxes.
- (7) Any proposed improvements to the sales area that is leased city property (pier, catwalks, sidewalks, and/or dockside area) are subject to approval by the city manager. The permittee shall remove any structures and/or improvements that the city manager deems unsafe and/or aesthetically nonconforming to prevalent or planned general appearance, style and decor of marina structures.
- (8) No booths or cleaning trays on piers, catwalks, sidewalks, or dockside area shall be permitted for the culling of the catch, cleaning or heading. Such activity shall be is allowed aboard the boat by the permittee.
- (9) It shall be the responsibility of all commercial seafood operators to keep all trash and debris clear from adjacent piers, sidewalks, and water within assigned slip.
- (10) All commercial vessels operated for seafood sales shall be operational, to include engines, winches, booms, nets, boards in operating condition. The permittee shall not engage in sale or barter of seafood on any vessel which is not operational and capable of being placed into service for a period in excess of seventy-two (72) hours.
- (11) All permittees must be current in the payment of all boat slip rentals.
- (12) The city manager may revoke any permit for cause. Default in the performance of any term, provision or condition of this subsection (b) shall constitute cause for revocation.
- c) The city manager is authorized to issue written permits to commercial marine service businesses who have assigned slips in the Port Aransas marina provided that no such permit shall be issued except under the following terms and conditions:
  - (1) The cost of such permit shall be set by city council by resolution and the term shall be one (1) year.
  - (2) The applicant shall submit a written plan stating nature of proposed business, uses of slip, hours of operation, slip improvements, and employee information.
  - (3) The city manager reserves the right to forward any application to the city council for council consideration and conditioning.

**Secs. 18-192 —18-215. - Reserved.**

## **SECTION 2. EFFECTIVE DATE**

As provided by Article III, Section 12.C. and by Article XII, Section 2 of the Charter of the City of Port Aransas, this ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the City of Port Aransas.

## **SECTION 3. READING**

As provided by Article III, Section 13 and Article III, Section 12(b) of the Charter of the City of Port Aransas, this ordinance or the caption of it shall be read at three city council meetings with at least one week elapsing between each reading.

#### **SECTION 4. SEVERANCE.**

If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

#### **SECTION 5. PUBLICATION.**

As provided by Article III, Section 12 (c), this ordinance shall be published one time in the official newspaper of the City of Port Aransas, Nueces County, Texas, which publication shall contain the caption of this ordinance stating in substance the purpose of same.

**PASSED, ORDAINED, APPROVED and ADOPTED** this the 16<sup>th</sup> day of MAY, 2013.

**CITY OF PORT ARANSAS, TEXAS**

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Keith McMullin, Mayor

**ATTEST:**

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Irma G. Parker, City Secretary

First Reading: 03/21/2013  
Second Reading: 04/18/2013  
Third Reading: 05/16/2013