

ORDINANCE NO. 641

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF LONG BEACH, MISSISSIPPI, TO ESTABLISH THE LONG BEACH SMALL CRAFT HARBOR ORDINANCE AND PROVIDE PROVISIONS RELATIVE TO THE USE, OPERATION, MAINTENCE, AND PRESENCE WITHIN THE LONG BEACH SMALL CRAFT HARBOR; TO PROVIDE FOR PENALTIES FOR THOSE FOUND TO BE IN VIOLATION OF THE LONG BEACH SMALL CRAFT HARBOR ORDINANCE, AND FOR RELATED PURPOSES.

Having made due investigation and consideration, and in order to promote the general health, welfare, safety and convenience of the citizens of the city of Long Beach,

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Long Beach, Mississippi, That the Long Beach Small Craft Harbor Ordinance Is Hereby Adopted As Follows:

Sec. 1. Definitions.

As used in this article, the following words shall mean:

Resident: One who resides therein or is a qualifying property owner in the county or state as applicable. Proof of residency or qualifying property owner shall be one who owns real property which includes a building for residential or commercial use or has filed homestead exemption or one who is a qualified registered voter or one who provides proof of purchase of a personal vehicle tag.

Harbor: Long Beach Small Craft Harbor, as now or from time to time established or delineated.

City: The City of Long Beach, Mississippi

Boat Owner: All persons owning and/or operating, and/or leasing, and/or exercising control over any watercraft in or utilizing the watercraft facilities of the harbor

Ordinance: The Long Beach Small Craft Harbor Ordinance As herein adopted, and as from time to time amended.

Sec. 2 Penalties.

For the violation of any provision of this article, the city may, in addition to the penalties otherwise set out in municipal ordinance cancel the rent contract of any lessee of berth, slip, harborage and mooring space upon five (5) days' notice in writing addressed to the lessee at its address of record as shown in the berth agreement.

Sec. 3. Applicability of Article; Governing Rules and Regulations.

All persons owning and/or operating, and/or leasing, and/or exercising control over any watercraft in or utilizing the watercraft facilities of the harbor, and/or any other person, upon the hereinafter designated area, shall be governed by and be subject to the rules and regulations contained in this Ordinance, the berth agreement, Harbor rules, Pier rules, and any and all other applicable municipal and county ordinances, state statutes, federal laws and rules and regulations as may be promulgated by any applicable regulatory agency.

Sec. 4 - Office of Harbormaster.

For the purposes of this article, the office of Harbormaster of the city is hereby created, and he shall be, and hereby is, vested with full power and authority to enforce all the rules and regulations herein provided for, including the power to execute, for and on behalf of the city, rental contracts in conformity with this article. There shall be no harboring, berthing or anchoring in the harbor without harbor master approval. All vessels not registered with the harbor master

shall notify the harbor master by VHF radio, when available, when transitioning into and out of the harbor.

Sec. 5 - Charges for using harbor.

(1) The rates and charges hereinafter set forth are hereby adopted and prescribed and are to be paid to the city for the use of the harbor Harborage facilities and/or services without regard to the time the watercraft actually is Harbored or moored at the Harbor, slip, wharf or mooring space in the basin:

A. Mississippi Residents: Rent to be calculated at the rate of \$4.20 per linear foot of the above described vessel.

B. Harrison County Residents: Rent to be calculated at the rate of \$3.50 per linear foot of the above described vessel.

C. Out of State Residents: Rent to be calculated at the rate of \$6.30 per linear foot of the above described vessel.

D. Air-conditioning: Any vessel that has an air-conditioner shall be charged an additional sum of \$15.00 per month for each air conditioning unit aboard.

E. Utility Fee: Boat Owners shall pay the sum of \$20.00 per month for costs of utilities.

F. Daily Rate: Boat Owners who rent a slip on a daily basis shall pay the sum of \$1.00 per foot of boat length per day through day 5. Day 6 through day 15, Boat Owner shall pay ½ of the rent based on the aforesaid A – E. Boat Owners exceeding 15 days shall pay a monthly rate as calculated on the aforesaid A – E. Space and Slip availability is at the sole discretion of the Harbor Master.

G. Discount on berth. Lessees paying rent on an annual basis shall receive a ten (10%) percent discount if the rent is prepaid in full at the beginning of the berth year.

(2) Use of vacant reserved space. The city reserves the right to use all reserved space while such space is known to be vacant.

(3) Advance payment; minimum term. All rent shall be payable in advance, and no space shall be rented for less than one (1) month except as provided in this section.

Sec 6. Live Aboards; Permanent living quarters and business activities.

No berth holder may use its boat, vessel, or watercraft as identified in the berth agreement for permanent living quarters except those who have executed a live-aboard addendum to their berthing agreement and remain in full compliance with the terms thereof. Unless the berth space is located in an area designated for commercial operation or activity by the city, no berth holder may use or permit the berth space to be used directly or indirectly in any trade or business or commercial operation or activity.

In consideration of the Commission's grant of permission to live aboard the Vessel, the commission shall charge and invoice on a monthly basis, and the Boat Owner shall pay the fees set forth below, hereto (the "Live Aboard Fees"). Such Live Aboard Fees are in addition to any and all other fees and charges due by the Boat Owner to the Commission under the Berthing Agreement or otherwise.

- A. Live Aboard Rent to be calculated at the rate of \$ 7.00 per linear foot of the Vessel.
- B. For any more than two persons living aboard, an additional \$ 40.00 per person will be added to the rent.
- C. Utility Fee: Boat Owners shall pay the sum of \$ 50.00 per month for costs of utilities.
- D. Air-conditioning: Any vessel that has an air-conditioner(s) shall be charged an additional sum of \$ 50.00 per month for each air conditioning unit aboard.

Sec. 7 - Report, registration upon arrival.

The masters or owners of all incoming watercraft shall immediately upon arrival of such watercraft in the harbor, report the arrival of such watercraft to the Harbormaster of the city and register his vessel with the Harbormaster and arrange for berthing facilities for such craft.

Sec. 8 - Berth agreement.

Before being assigned berthing facilities or space for watercraft and before occupying any berth, slip or Harboring space, the owner or master or other duly authorized agent of the owner of watercraft shall have first executed a berth agreement therefor in the form provided by the city and the berth agreement shall have been executed by the Harbormaster; provided however, that commercial watercraft wishing to harbor sporadically or on occasion for sole purpose of picking up and/or discharging passengers may be permitted to do so on specific days upon request to and on permission given by the Harbormaster.

Sec. 9. - Berth agreements not assignable; subletting prohibited.

The berth agreement provided for in this ordinance shall not be assignable and the space thereby rented may not be sublet or used by any watercraft other than the watercraft identified in the berth agreement.

Sec. 10. - Person in arrears for past rent and fees; penalties.

No space shall be rented to any person who has failed to pay to the city all rental charges and environmental fees for space for any watercraft theretofore berthed, moored or berthed in the harbor for which such person is or was liable until such past due rent or charge, by whatsoever manner it was incurred, is paid in full to the city.

Sec. 11 - Payment of rent.

All berths, slip or harborage space rented shall be payable in advance at the Long Beach City Hall, Jeff Davis Ave. Long Beach, Mississippi; and no watercraft shall occupy or utilize any berth, slip or harborage space until said rental has been paid pursuant to a berthing agreement provided by the city nor continue to use such space after the period for which the rent has been paid nor after the expiration of the term of the berthing contract by prescription or as therein otherwise provided; and, further, if said slip or harborage fee is not paid as herein provided and becomes thirty (30) days in arrears at any time, the city may immediately serve on said tenant a letter advising said tenant of his/her expulsion from the harbor within seven (7) days from receipt of said letter; and failure of any tenant to so remove himself/herself and his/her vessel from the harborage space shall result in the assessment of a storage fee upon said tenant in the amount of fifteen dollars (\$15.00) per day and shall constitute an express lien against said vessel in the event legal action is taken to collect the same.

Sec 12. Non-Payment and /or late payment:

A charge of 10% of the monthly rent shall be added to any bill for monthly rent and fees not paid on or before the 15th of the month for which same is due and payable. In the event that the rent and other charges are not paid on or before the date such charges become due and payable, the Boat Owner shall be subject to having his vessel seized and sold according to the lien imposed by general maritime law and/or Section 85-7-9, Mississippi Code of 1972, annotated and amended, et. seq. Further, each Boat Owner is hereby advised pursuant to the above referenced State Statute that "such lien shall be paramount to all other debts due and owing by such water craft or the owner thereof or other lien thereon, except as provided by section 85-7-7, Mississippi Code of 1972, annotated and amended. Further, Boat Owner shall be responsible for and pay a reasonable attorneys fee if said matter is turned over to an attorney for collection and enforcement. In the event that a Boat Owner becomes delinquent in the payment of any sums owed The City, that The City and/or its duly appointed Harbormaster may use any reasonable method available included, but not limited to, chaining the vessel to the dock, removing the vessel to a secure storage facility or blocking the vessel in its berth, to impose its lien against the vessel itself. That The City shall not be responsible any damages which may occur to the vessel consequential damages as a result of such enforcement measures. Any delay in enforcement of the lien by the city shall not act as a waiver of the city's right to enforce the lien.

Sec. 13- Contract cancelled when craft sold, rented.

The sale, leasing or transfer of title of any watercraft or change in operating partner of a documented vessel shall immediately cancel the rent contract by which space has been assigned for such watercraft, and it shall be necessary for the new owner, lessee or operating partner of such watercraft to make application for space and procure a rent contract for space within forty-eight (48) hours after such sale, transfer of title, leasing or change in operating partner.

Sec. 14 - Rent declared lien.

In the event any watercraft occupies any berth, slip or mooring space at any wharf or harbor in the harbor without there first having been made application for space and space having been allotted through execution of a rent contract or in the event the rental is not paid in accord with the requirements of this article, there shall be a lien as provided by Mississippi Code Annotated § 85-7-9, on the watercraft occupying such berth, slip or mooring space for not less than one (1) month's rental, regardless of the time such space be so occupied, in the sum provided by the ordinance of this city fixing the rental charges for space; and it shall be the duty of the harbormaster to promptly notify the city attorney of such happening in order that the lien may be enforced. Any delay in enforcement of the lien by the city shall not act as a waiver of the city's right to enforce the lien.

Sec. 15. - Changing berths.

No person, owner, master and/or operator shall transfer any watercraft from one (1) berth, slip or harboring space to another, except as a temporary emergency upon order or authorization of the Harbormaster.

Sec. 16. - Number of boats per berth.

No person shall operate more than one (1) boat from a single berth, slip or harboring space, except where provided by ordinance.

Sec. 17 - Clean Marina practices; General cleanliness.

All boat owners shall comply with guidelines in the Mississippi Clean Marina Program as adopted by the Long Beach Harbor Commission and/or City of in order to protect the harbor resources from contamination and pollution. In addition, all berthing areas must be kept clean

by the owner or operator thereof, and no fish, crabs, shrimp (or parts thereof) or refuse of any kind is to be thrown overboard into the harbor by any person, nor shall any vessel leaving the harbor be entitled to dump or throw overboard any trash or refuse of any sort within the corporate limits of the city, which extend five thousand (5,000) feet south of the seawall along the shoreline of the Mississippi Sound.

Sec. 18 - Bilge, oil.

(1). No bilge oil or hazardous substances shall be discharged into the water. In the event a vessel discharges oil or hazardous substances in the water the Owner shall immediately notify the National Response Center at 1-800-424-8802 and the Mississippi Emergency Management Agency at 1-800-222-MEMA.

(2). All waste oil or bilge fluids must be disposed of at an approved reception facility.

Sec. 19. - Leaving Supplies on Harbor.

No person shall leave any equipment, material or supplies on any pier or berthing area in the harbor or wharf in the harbor; provided however, that the owner or master or operator of a watercraft renting space for berthing or mooring such watercraft may place supplies on the berth or wharf adjacent to the space rented for immediate transfer to such watercraft then berthed or moored.

Sec. 20 - Leaving supplies on adjacent property.

No person shall leave any equipment, material or supplies of any character upon or deposit same upon the piers, wharves, parkways, sidewalks or streets adjacent to the harbor except as otherwise by this article provided.

Sec. 21 - Unauthorized signs, structures.

No person shall place, erect or construct any signs, make any alterations or repairs to the facilities in the harbor, attach or construct any deck boxes on the piers and structures of the harbor, or erect any structures of any kind to or on any pier, wharf or ground adjacent to a berth unless written application therefor has been made in a form sufficient to furnish all details to the city engineer and written permission therefor has been given by the harbormaster. All deck boxes and signs to be permitted on the piers and wharves shall be of one (1) design and authorized by the harbor master.

Sec. 22 - Repairing boats.

No person shall make any repairs to any watercraft while same is in the harbor, except minor repairs, without the written permission of the Harbormaster; and in the event such permission is given, all scrap materials, parts and refuse shall be removed from the harbor property by the owner of the watercraft. Prior to undertaking repairs to a vessel's structure, hull or topsides within the harbor, the owner of the vessel shall obtain the approval of the harbor master. In order to obtain an approval, the owner shall submit a written work plan that includes a work schedule and descriptions of the measures that will be used to control the discharge of emissions, to protect harbor structures from damage, and to dispose of waste and refuse from the repair activities. The Harbormaster shall issue a written approval if the owner satisfactorily demonstrates that the repair activity will not interfere with the operation of the harbor, cause damage to the harbor or structures therein or other vessels, cause the discharge of damaging emissions, and other factors the harbor master determines are necessary to maintain the enjoyment of the harbor. Further, no person shall strip, sand, scrape, grind, sandblast, spray paint or undertake any other boat repair activity in a manner that harms or damages another vessel or

harbor structure, or causes the discharge of emissions with the harbor unless the person undertakes adequate measure to prevent the discharge of emission onto other vessels or harbor structures.

Sec. 23 - Unsightly, dangerous boats.

- (1.) No watercraft of any kind whatsoever shall be rented space or be permitted to moor or tie up to any place within the harbor, which is of an unsightly appearance, or in a badly deteriorated condition, or which is likely to damage the harbor piers or wharves and/or which might become a menace to navigation; watercraft in such condition are hereby declared to be a public nuisance.
- (2.) In the event watercraft becomes a public nuisance either because of its condition if moored to the wharves or sinks or partially sinks in the basin, the city shall be entitled to give notice to the owner to require the dangerous condition and/or public nuisance to be corrected by the owner within seven (7) days from the date of the notice, failing in which the city shall be entitled to take such steps as necessary to remove such nuisance or to eliminate such danger and to charge the owner of such vessel or watercraft with such costs. In the event the danger and/or nuisance will not permit delay of seven (7) days, the city in its sole discretion shall have the power to take all action necessary and incidental to remove such danger and/or nuisance. This provision shall become a part of each rental contract with owners of yachts and watercraft using the harbor.

Sec. 24 - Liability for damage to facilities.

All persons injuring or damaging the facilities, piers or wharves and all persons owning watercraft which injure or damage the facilities, piers or wharves shall immediately reimburse the city in an amount equal to the cost of repairing such damage or injury to said facilities, piers or wharves. The city shall have a specific lien on any vessel or watercraft, its equipment and appurtenances, which shall damage the Harbors and wharves, due to the negligence in the operation of the handling thereof.

Sec. 25. - Permanent anchors, dead-men.

No person shall be permitted to sink or place any permanent anchor, or dead-men in the basin.

Sec. 26. - Houseboats.

No houseboat shall enter or remain in the harbor excepting yachting houseboats that are power driven.

Sec. 27. - Row boats, canoes.

No person shall operate any row boat or canoe in the harbor except for the sole purpose of transportation from boat to boat, or to and from Harbor to boat, or to and from the Mississippi Sound or to/from the harbor boat launch.

Sec. 28 - Tugboats, freight boats, shrimp, oyster or non-sport commercial fishing vessels.

Except as may be otherwise provided by ordinance, no working tugboats, freight vessels, shrimp, oyster, or non-sport commercial fishing vessels shall enter or use the harbor. Nothing herein shall be construed as prohibiting entry into or use of the harbor by the aforementioned vessels in the case of an immediate emergency or for the purpose of taking on fuel and supplies

at the fuel Harbor. Further, nothing herein shall be construed to prohibit the temporary Harborage of such vessels at/near the Harbor Market for sale of fresh catch from the vessel.

Sec. 29. - Permit to conduct business.

No person shall solicit business or sell or offer for sale any article or commodity whatsoever on the sidewalks, streets, parkways, harbors or wharves in, on or adjacent to the harbor or harbors, without first securing the written permission of the Harbormaster to do so.

Sec. 30. - Fishing, crabbing.

No person shall be permitted to fish or crab on or from any driveway, walk, Harbor, pier or appurtenance of any of the same in, on or adjacent to the harbor, nor fish with seines, trawls or nets in waters of the basin.

Sec. 31. - Reckless operation.

No person shall operate any boat or watercraft in the harbor in a reckless or dangerous manner so as to endanger the lives or property of others. Reckless operation includes but is not limited to the failure to exercise the care necessary to prevent the endangerment of life, limb, or property of any other person.

Sec. 33. - Operating while intoxicated prohibited.

No person shall operate a watercraft while under the influence of intoxicating liquor.

Sec. 34. - Transporting, storing gasoline.

No person shall transport and no owner or operator of a watercraft shall permit to be transported for use on his/her watercraft any gasoline or fuel to or from any watercraft or Harbor except by pipeline or in a closed container of a fire marshal-approved safety can type or fuel tank, fire marshal-approved and designed specifically for use with auxiliary or detached-type engine/fuel systems; and no gasoline or fuel shall be in any manner placed or stored on any Harbor or wharf except for immediate transfer into a yacht or vessel thereat moored or berthed.

Sec. 35. - Persons authorized on Piers

No person shall go upon the slips or piers of the harbor, except the lessee of the slip or berthing space, the guest or authorized agent of the lessee, or the duly authorized employees of the city.

Sec. 36 Insurance.

As a condition precedent to the placement of any vessel in the harbor, the Boat Owner shall provide the Harbor Master with proof of ownership and a current home state registration for the vessel or a copy of the US Coast Guard vessel documentation certificate indicating actual Over All Length (OAL) to determine slip rent for the vessel. In addition, a copy of an active insurance policy for the vessel shall be provided when the initial agreement is enacted.

Sec. 37. Uses.

Boat Owner shall not use nor permit the demised premises, or any portion thereof to be used for: (1) the conduct of any offensive, noisy, or dangerous activity or public nuisance, or against any law, or (2) in any manner which would infringe on the rights of other tenants of the City, or (3) in any manner contrary to the rules and regulations of the City, a current copy of which has been provided to Boat Owner and which may be amended from time to time without prior

notice to Boat Owner. Boat Owner agrees to abide by all rules, regulations and directions of the United States Coast Guard, Mississippi Department of Marine Resources, Mississippi State Health Department, the U.S. Environmental Protection Agency and all other federal and state agencies, departments or political subdivisions thereof.

Sec. 38. Removal of Vessel by Boat Owner.

If at any time the Boat Owner or Lessee is in any way concerned about the safety of his/her vessel, he/she should immediately remove said vessel from the harbor. Furthermore, in the event of eminent danger from hurricanes, tropical storms or other natural disasters and/or notification by Emergency Management officials, the Boat Owner agrees to immediately remove said vessel from the harbor. Failure to remove said vessel will result in possible liability of the Owner to other Boat Owners and The City or property owners that may result in damage caused by boat owners.

Sec. 39. Emergency Removal of Vessel.

Boat Owner agrees that The City may remove the vessel from the slip at the sole expense of Boat Owner in the event that said vessel becomes a nuisance, becomes unseaworthy, or in case of dangerous weather conditions such as hurricanes. "Expense" includes but is not limited to the removal and storage cost of said vessel. Boat Owner further agrees to hold harmless all parties involved in the removal and storage of vessel in the event of its Emergency Removal.

Sec 40. Violations Punishable as Misdemeanors

(1) Violation of this ordinance shall constitute a misdemeanor and subject any person found guilty to a fine of up to \$500.00 and/or imprisonment for a term not to exceed 30 days, or both.

(2) Subsequent violations of this ordinance for the same offense shall be punishable as a misdemeanor, with a fine of not more than \$1,000.00 per occurrence and/or imprisonment for a term not to exceed 180 days, or both.

(3) In the event of a declaration of state of emergency by the City officials and/or notification by Emergency Management officials due to the possibility of eminent danger from hurricanes, tropical storms or other natural disasters, Boat Owner's may be required to immediately remove his or her vessel from the harbor. Failure to remove said vessel during a declaration of state of emergency shall constitute a violation hereof, and in addition to the other penalties provided herein, shall result in cancellation of the Boat Owner's berthing agreement.

Sec. 41. Effective Date

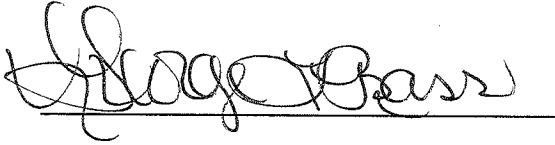
The City Clerk is hereby ordered to publish this Ordinance and Resolution in the manner and time required by law, and this Ordinance and Resolution of the Mayor and Board of Aldermen of the City of Long Beach shall be deemed effective in the manner and time prescribed by law.

This ordinance having first been reduced to writing, Alderman Frazer made motion to approve the Ordinance. Alderman Griffin seconded the motion and the question being put to a roll call vote the result was as follows:

Alderman Ronald Robertson	voted	Aye
Alderman Timothy McCaffrey, Jr.	voted	Aye
Alderman Kelly Griffin	voted	Aye
Alderman Bernie Parker	voted	Aye
Alderman Mark E. Lishen	voted	Aye
Alderman Patricia Bennett	voted	Aye
Alderman Donald Frazer	voted	Aye

The question having received the affirmative vote of all the Aldermen present and voting, the Mayor declared the motion carried and the said Ordinance Number 641 adopted and approved this, the 15th day of January 2019.

APPROVED:

A handwritten signature in cursive script, reading "George L. Bass", written over a horizontal line.

GEORGE L. BASS, MAYOR

ATTEST:

A handwritten signature in cursive script, reading "Kini Gonsoulin", written over a horizontal line.

KINI GONSOULIN, DEPUTY CITY CLERK

CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF HARRISON
CITY OF LONG BEACH

I, the undersigned, Kini Gonsoulin, Deputy City Clerk within and for the City of Long Beach, Mississippi, do hereby certify that the above and foregoing is a true and correct copy of that certain Ordinance #641 of the City of Long Beach, Mississippi, adopted by the Mayor and Board of Aldermen at a regular meeting duly held and convened on the 15th day of January, 2019, as the same appears of record in Ordinance Book #9, pages 13-22, inclusive, in my office at the City Hall in said City.

Given under my hand and the official seal of my office this the 16th day of January 2019.



Kini Gonsoulin, Deputy City Clerk

-SEAL-

