

## **CHAPTER 47 WATERWAYS\***

- Art. I. In General, §§ 47-1 – 47-17  
Art. II. Watercraft, §§ 47-18–47-41  
Art. III. Wharves and Docks, §§ 47-42 – 47-46

### **ARTICLE I. IN GENERAL**

#### **Sec. 47-1. Definitions.**

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Harbor shall include all the navigable waters within the limits of the city and all lagoons, wing dams, wharves, docks, revetments and piers adjacent thereto.

Vessel, craft and float shall include every kind of steam, sailing or other craft or vessel, and every barge, raft or scow. (Gen. Code 1946, Ch. 9, 101.1, 101.2; Code 1972, 3.71)

Cross reference – Definitions and rules of construction generally, 1-2.

#### **Sec. 47-2. Federal laws applicable.**

All laws, rules and regulations of the United States government appertaining to the harbor shall be the law of the city. (Gen. Code 1946, Ch. 9, 101.3; Code 1972, 3.72)

Cross reference – Buildings and building regulations, Ch. 11; housing, Ch. 20.

#### **Sec. 47-3. Harbor master.**

(a) The police chief shall be the harbor master. It shall be his duty to enforce the provisions of this chapter.

\*Cross references – Parks and recreation, Ch. 28; streets, sidewalks and other public places, Ch. 37; water supply, 44-16 et seq.

State law references – Marine Safety Act, MCL 281.1001 et seq., MSA 18.1287(1) et seq.; local regulations, MCL 281.1017, MSA 18.1287(17).

(b) The harbor master shall keep an accurate account and record of all damage to bridges, Docks, wharves and other public or private property pertaining to the harbor and shall gather information and evidence concerning such damage, the cause thereof, and responsibility therefor, and shall from time to time make a detailed report thereof to the city manager. It shall be the duty of the harbor master to report all encroachments upon the harbor lines as now established, or which may hereafter be established, and to take such action as may be necessary to prevent such encroachments. Copies of such reports shall also be submitted to the port commission.

(c) The harbor master shall prepare and preserve all statistical data respecting the harbor, and shall report the same to the city manager and to the port commission.

(d) The harbor master shall give such orders and directions relative to the location, change of place or station, manner of moving or use of the harbor of or by every vessel, craft or float lying, moving, anchored or laid up in the harbor, as may be necessary to promote good order therein and the safety and equal convenience of such vessels, craft and floats and so regulate the same that the harbor shall not be unnecessarily congested. (Gen. Code 1946, Ch. 9, 101.4-101.7;

Code 1972, 3.73)

Cross reference – Administration, Ch. 2.

**Sec. 47-4. Polluting waters.**

No person shall throw, dump, deposit or cause or permit to be thrown, dumped or deposited, any garbage, refuse or other unwholesome substance, or any stone, timber, rubbish, junk or similar substance upon the margin or within the limits or into the waters of the harbor, except with a written permit from the harbor master. This shall not prevent the flow into the harbor of sewage through municipally owned sewers or from watercraft which have no other means of disposal. (Gen. Code 1946, Ch. 9, 101.8; Code 1972, 3.74)

Cross references – Air pollution prevention and control, Ch. 4; nuisances, Ch. 25.

**Sec. 47-5. Pilings and fills.**

No person shall drive any piles or deposit any timber, stone or other substance or structures so as to project above or below the surface of the waters of the harbor or any part thereof, or beyond the established dock lines without written permission of the harbor master. All piling, timber, stone or other substance or structure so placed or laid is hereby declared to be a public nuisance. (Gen. Code 1946, Ch. 9, 101.9; Code 1972, 3.75)

**Sec. 47-6. Encroachments.**

No person owning, leasing or in possession of premises abutting on the harbor shall encroach upon the harbor lines as now established, or which may hereafter be established. (Gen. Code 1946, Ch. 9, 101.10; Code 1972, 3.76)

**Secs. 47-7 – 47-17. Reserved.**

**ARTICLE II. WATERCRAFT\***

**Sec. 47-18. Anchorage.**

No watercraft shall anchor in the harbor except in accordance with the rules and regulations of the United States government in respect thereto; provided, that in case of necessity, the harbor master shall have authority to direct the location and length of time any watercraft may anchor. (Gen. Code 1946, Ch. 9, 102.1; Code 1972, 3.81)

**Sec. 47-19. Noise**

No watercraft shall be operated in the harbor so as to cause unnecessary noise or disturbance to the public. No motorboat, operated by either inboard or outboard motor, shall be operated within the harbor without a muffler or similar device which shall eliminate all unnecessary noise. (Gen. Code 1946, Ch. 9, 102.2, 102.3; Code 1972, 3.82)

Cross reference – Noise generally, Ch. 24.

\*Cross reference – Traffic and motor vehicles generally, Ch. 41.

**Sec. 47-20. Prohibited cargo.**

No cargo shall be deposited upon any dock adjoining the harbor which cargo contains anything forbidden entrances to the state by state or federal law or which is in any way dangerous to the health, safety or welfare of the public. (Gen. Code 1946, Ch. 9, 102.4; Code 1972, 3.83)

#### **Sec. 47-21. Inspection.**

The police and health officials shall at all times have the right to enter upon any watercraft entering the harbor to inspect the craft or any person thereon for law enforcement purposes. (Gen. Code 1946, Ch. 9, 102.5; Code 1972, 3.84)

#### **Sec. 47-22. Houseboats.**

No person shall moor any floating craft used primarily for residence purposes anywhere within the harbor without the permission of the harbor master and the riparian owner. (Gen. Code 1946, Ch. 9, 102.6; Code 1972, 3.85)

#### **Sec. 47-23. Unsecured craft.**

No person shall allow or suffer any vessel, craft or float owned, leased or in his possession or charge to lie in the harbor insecurely fastened or to drift upon the waters of the harbor. The harbor master shall notify the master, owner or other person in charge of any such vessel, craft or float to secure the same without delay. If the harbor master shall be unable to find the master, owner or person in charge of such vessel, craft or float, the harbor master shall have the power to secure and fasten such vessel, and all expense incurred shall be chargeable to the owner, lessee or person in possession of such vessel. (Gen. Code 1946, Ch. 9, 102.7; Code 1972, 3.86)

#### **Sec. 47-24. Projecting cargo.**

No person discharging the cargo of any vessel, craft or float, and no owner, lessee or person in possession of any dock or wharf shall permit or suffer any part of such cargo to remain projecting over the front of such dock or wharf, after the vessel, craft or float shall remove from the wharf. (Gen. Code 1946, Ch. 9, 102.8; Code 1972, 3.87)

#### **Sec. 47-25. Night lights.**

No master or other person in charge or in possession of any vessel, craft or float anchored in the harbor, or tied up or moored at any wharf or dock, shall allow the same to remain during the nighttime unless properly lighted. (Gen. Code 1946, Ch. 9, 102.9; Code 1972, 3.88)

#### **Sec. 47-26. Identification.**

No master or person in charge or in possession of any vessel, craft or float shall operate, navigate, keep or maintain the same in the harbor unless such vessel, craft or float shall have a name or distinctive number plainly and conspicuously displayed thereon. (Gen. Code 1946, Ch. 9, 102.10; Code 1972, 3.89)

#### **Sec. 47-27. Obstructing harbor.**

No vessel, craft or float shall be moored or anchored in the harbor or laid up alongside any dock or wharf in such a manner as to prevent the passage of other vessels, craft or floats. The harbor master shall have the power to remove, or order removed, any vessel, craft or float so anchored, moored or laid up, when it is necessary to do so to facilitate the passage of other vessels, crafts or floats. (Gen. Code 1946, Ch. 9, 102.11; Code 1972, 3.90)

#### **Sec. 47-28. Abandoned craft.**

No person shall abandon any vessel, craft or float, or allow the same to sink in the harbor. Every vessel, craft or float which shall be so abandoned or allowed to sink in the harbor is hereby declared to be a public nuisance. (Gen. Code 1946, Ch. 9, 102.12; Code 1972, 3.91)

**Sec. 47-29. Interference with bridge.**

(a) No vessel, craft or float shall be moored, laid up, brought to a stop or anchored within the harbor so as to interfere with or hinder the opening or closing of any bridge across any of the waters of the harbor.

(b) No vessel, craft or float shall be so navigated as to strike or come in contact with any bridge abutment, center pier or the piles or revetments thereof. (Gen. Code 1946, Ch. 9, 102.13, 102.14; Code 1972, 3.92)

**Sec. 47-30. Cargo information.**

Every person in charge of any vessel, shall, upon request of the harbor master, furnish information as to the owner of the vessel and his address, kind and amount of cargo, to whom cosigned and to and where shipped from, how long the ship will be in port, and such other information as may be desirable to keep a complete record of harbor activities. (Gen. Code 1946, Ch. 9, 102.15; Code 1972, 3.93)

**Sec. 47-31. Speed limit on portion of St. Joseph River.**

(a) Definitions. All words and phrases used in this section shall be construed and have the same meanings as those words and phrases defined in Act 303, Public Acts 1967, as amended, Michigan Statutes Annotated 18,1287(8).

(b) Speed limit established. On all portions of the St. Joseph River within the City of Benton Harbor, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.

This area can be described by starting where the Paw Paw River meets with the St. Joseph River upstream to where West Empire Avenue as extended westerly, meets the St. Joseph City Boat Launch on Marina Island on the opposite side of the river.

“Slow-no wake speed” means a very slow speed whereby the wake or wash created by the vessel would be minimal.

The boundaries of the area described above shall be marked with signs and/or with buoys and maintained by the City of Benton Harbor. Public access sites within the area described above shall also be marked identifying this local watercraft control. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the State Uniform Waterway Marking System. Buoys shall not be placed in a commercial shipping channel. This local watercraft control is only enforceable when clearly and properly marked.

(c) Penalty for violation. Violations of this section are a misdemeanor and may be punished by fine not to exceed one hundred dollars (\$100.00) together with costs of prosecution or imprisonment in the county jail or such other place of detention as the court may prescribe, for a period not to exceed ninety (90) days, or said fine, costs of prosecution, and imprisonment, at the discretion of the court. (Ord. of 7-19-82, 1, 2, 4)

Editor's note – An ordinance adopted July 19, 1982, did not specifically amend this Code; hence inclusion of 1, 2 and 4 as 47-31 was at the discretion of the editor. The ordinance enacted provisions identical to state administrative rule R 281.411.5, Rule 5.

**Secs. 47-32-47-41. Reserved.**

### **ARTICLE III. WHARVES AND DOCKS\***

**Sec. 47-42. Construction, maintenance.**

The docks and wharves on the waterfront of all lots and premises abutting upon the city ship canal or upon any other navigable waters in the city shall be built and constructed and thereafter maintained and kept in repair by the owners of such lots and premises. All dock and repair work shall be under the supervision of the city engineer. (Gen. Code 1946, Ch. 9, 103.1; Code 1972, 3.98)

**Sec. 47-43. Building permits.**

No person shall construct, renew, repair or alter any dock, wharf or revetment within the harbor without first having obtained a permit therefor from the building department. (Gen. Code 1946, Ch. 9, 101.11; Code 1972, 3.77)

**Sec. 47-44. Order to repair.**

Whenever in the opinion of the city commission public necessity requires the building, rebuilding or repairing of any dock or wharf along any such waterfront in the city, and upon any lot or premises abutting such water they shall so declare by resolution and shall order the same to be built, rebuilt or repaired. Such resolution shall state within what time after service of a copy of such resolution, as herein provided, such work shall be completed, and it shall order the owner or part owner of such lot or premises to build, rebuild or repair such dock or wharf within the time specified, and shall further specify that if such owner or part owner does not so build, rebuild or repair such dock or wharf within the time specified then that the city engineer will cause such work to be done and the expense thereof shall be charged to such owner or part owner and shall also be assessed upon such lot or premises adjacent to and abutting upon such waterfront and upon which such work is done, in accordance with section 36-8. (Gen. Code 1946, Ch. 9, 103.2-103.8; Code 1972, 3.99)

**Sec. 47-45. Public docks and landings.**

All public parks, streets, alleys and other public properties bordering upon and ending at the harbor shall be public docks or landing places. (Gen. Code 1946, Ch. 9, 103.9; Code 1972, 3.100)

**Sec. 47-46. Boat launching fees.**

(a) A fee of two dollars (\$2.00) is hereby imposed for the use of the parking and boat Launching facilities of the city located on Riverview Drive from Saturday at 6:00 a.m. through Sunday at 10:00 p.m. Residents of the city launching boats registered in their name are exempt from the payment of this fee.

(b) The chief of police or his duly authorized representative shall collect the fee provided for in subsection (a). Stickers for boats registered to city residents shall be issued by the chief of

police or duly authorized representative upon request. (Ord. of 6-18-73, 3.101).