



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 17, 2015

TO: Ordinance Committee

FROM: Operations Division, Waterfront Department

SUBJECT: Proposal To Establish A Definition For "Vessel" For Craft Berthed, Moored Or Anchored In The Harbor District

RECOMMENDATION:

That the Ordinance Committee forward to Council for introduction An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code By Amending Section 17.04.010 and Adding Section 17.12.050 Establishing a Definition of "Vessel" for Craft Berthed, Moored or Anchored in the Harbor District.

BACKGROUND:

For years, there has existed an interest among some members of the public in placing man-made floating objects in the Harbor District of the City, especially in Santa Barbara Harbor. Owners of these floating objects ("floating homes") that are designed to remain stationary and never leave their slips, have found ways to meet the Department's "operability" requirement by demonstrating, solely for purposes of passing the test, an ability to maneuver safely under their own power from their point of origin to the open waters of the Pacific and back to their point of origin. Typically, this is done through deployment of small outboard engines, make-shift steering stations and temporary lookouts, all for the purpose of passing a single at-sea test—a purely ceremonial exercise without intent of using the floating object for actual boating purposes.

Berthing, mooring or anchoring these floating objects in the Harbor District directly conflicts with Coastal Act Section 30224Z: "Increased recreational boating use of coastal waters shall be encouraged," and Section 30234: "Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided." Also, the Harbor Master Plan states, "The Harbor shall be a working harbor with priority given to ocean dependent uses, such as commercial fishing and recreational boating."

Finally, using slips for floating homes that remain stationary does not serve the needs of persons on the Department's Slip Waiting List, some of whom have lingered decades on the list awaiting the opportunity to rent a slip and go boating.

DISCUSSION:

In 2013, the United States Supreme Court took up the question of whether all floating homes are "vessels" under Maritime Law. The Court held that not every structure that floats is a vessel. Instead, it held that, "A floating residence is not a vessel... 'unless a reasonable observer, looking to the home's physical characteristics and activities, would consider it to be designed to any practical degree for carrying people or things on water.'"

The Supreme Court's recognition that not all floating objects are "vessels" has provided guidance to staff in developing a workable definition of "vessel" that precludes berthing, mooring or anchoring floating objects not designed or constructed for carrying people or goods over water (e.g. floating residences not intended for ocean travel) in the Harbor District. Working with the City Attorney's Office, staff drafted a definition of "Vessel" to be included in Title 17 of the City's Municipal Code that would serve the purpose of preserving use of the Harbor District for "vessels" that can actually be used for recreational boating or fishing.

There currently exists four floating objects in the Harbor District that do not meet the proposed definition of Vessel, and Waterfront staff consistently fields inquiries for more. The proposed amendment to the Municipal Code will not affect these existing floating homes. Only floating objects attempting to berth, moor or anchor in the Harbor District after December 1, 2015, or the effective date of the Ordinance amendment, whichever is later, will be precluded from doing so.

Additionally, the proposal to add a definition of "Vessel" to the Municipal Code has no effect on the Waterfront Department's liveaboard program.

Staff presented this proposal for discussion at the September, 2013 Harbor Commission meeting, returning to the Commission in September, 2014, earning conceptual approval of a proposed definition for "Vessel". Working with the City Attorney's Office, staff returned to the Commission in September, 2015 with proposed Municipal Code language that would codify these proposals, and recommended City Council approval. The Commission supported that recommendation.

Adoption of the Ordinance is Categorically Exempt under the California Environmental Quality Act, Guidelines Section 15305, Minor Alteration to Land Use Limitations, and because it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

CONCLUSION:

With adoption of the proposed Ordinance, the City will have, as of the effective date of the Ordinance, the legal means to prevent the berthing, mooring or anchoring of man-made floating objects that do not meet the definition of "Vessel."

This, in turn, will advance and protect the City's priority obligations to accommodate recreational boating and commercial fishing.

ATTACHMENT: Proposed Ordinance
PREPARED BY: Mick Kronman, Harbor Operations Manager
SUBMITTED BY: Scott Riedman, Waterfront Director
APPROVED BY: City Administrator's Office

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING THE
SANTA BARBARA MUNICIPAL CODE BY
AMENDING SECTION 17.04.010 AND
ADDING SECTION 17.12.050 TO ESTABLISH
A DEFINITION OF "VESSEL" FOR CRAFT
BERTHED, MOORED OR ANCHORED IN
THE HARBOR DISTRICT.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Section 17.04.010 of Chapter 17.04 of Title 17 of the Santa
Barbara Municipal Code is amended to read as follows:

17.04.010. Definitions.

The following words and phrases shall have the meaning indicated, unless the
context or usage clearly requires a different meaning:

A. ANCHOR. A heavy metal device, fastened to chain or line, designed to
help hold a vessel in position.

B. ANCHORING EQUIPMENT. An Anchor, line or chain and associated
gear that is retrievable, stowable, non-permanent ground tackle designed to engage the
seafloor and through its resistance to drag maintain a vessel within a given radius.

C. BERTH. A water surface area, delineated by either floating or fixed dock
structures, intended for the purposes of embarking, disembarking and the wet storage
of boats. A Berth is also known as a "Slip."

D. CITY-APPROVED MOORING INSPECTOR. An individual who, by satisfactorily demonstrating appropriate qualifications, has been included on a City-approved list of inspectors eligible to install, inspect and repair ground tackle for Mooring Permittees in the Santa Barbara Mooring Area.

E. CITY PIER. The City Pier is located adjacent to the Breakwater at the Southeastern end of Harbor Way in the Santa Barbara Harbor formerly known as the "Navy Pier."

F. DINGHY. A small boat used as a tender to a larger vessel. A Dinghy is also known as a "Skiff."

G. DISCHARGE. To spill, leak, pump, pour, emit, empty, dump, deposit, or throw.

H. DOCK. A platform, either floating or fixed, provided in a marina for the wet storage of a boat and pedestrian access for and from the boat.

I. DOCKAGE. The daily rate assessed a vessel which ties up to any wharf or pier in the Harbor.

J. FLOAT. A wharf, pier, quay or landing.

K. GROUND TACKLE. All equipment used for Mooring or anchoring a vessel securely to the seafloor.

L. HARBOR. The area depicted on Exhibit "A" attached to Chapter 17.20 generally bounded by and including Stearns Wharf on the east, the Breakwater on the south, the seawall abutting Harbor Way and the Harbor commercial area on the west, the concrete walkway and seawall along currently-designated Marinas 2, 3 and 4 and including the area commonly known as West Beach on the north.

M. HARBOR DISTRICT. The entire Waterfront of the City, including all navigable waters and all tidelands and submerged lands, whether filled or unfilled, situated below the line of mean high tide, bounded by the limits of the City as now fixed or hereafter may be extended.

N. HARBORMASTER. The person designated by the Waterfront Director as the division manager of the Operations Division of the Waterfront Department.

O. HARBOR PATROL SUPERVISOR. The person designated by the Waterfront Director as the supervisor of the Harbor Patrol Officers in the Operations Division of the Waterfront Department.

P. LIVE-ABOARD. The use or occupancy of a vessel for habitation on any four (4) nights during a seven (7) day period. The term does not include the vacation use of a vessel, as defined in Section 17.18.090, by its registered owner and the owner's guests.

Q. MARINA. A connected system of slips in the Harbor.

R. MARINE SANITATION DEVICE. Equipment on board a vessel that is designed to receive, retain, treat, process, or discharge sewage.

S. MINIMUM GROUND TACKLE SPECIFICATIONS. The specifications for Ground Tackle used to moor a vessel, attached as Attachment "A" to the Resolution of the Council of the City of Santa Barbara Establishing Minimum Ground Tackle Specifications and Procedures for Installing, Inspecting and Repairing Moorings in the Santa Barbara Mooring Area, as may be amended from time to time by the Harbor Commission, with which all vessels intending to moor in the City of Santa Barbara Mooring Area must comply.

T. MOORING. An Anchor, chain, buoy, pendant, snubber, chafing gear and associated equipment, not typically stowed or carried aboard a vessel when underway, used to engage the seafloor and through its resistance to drag maintain a vessel within a given radius.

U. MOORING INSPECTION REPORT. A City form on which a City-Approved Mooring Inspector provides the results and recommendations of a Mooring Inspection.

V. MOORING PERMIT. An annual non-transferable Mooring Site rental agreement issued by the Waterfront Director to a Mooring Permittee to place a Mooring and vessel in a Mooring Site in the Santa Barbara Mooring Area.

W. MOORING SITE. A designated location within the Santa Barbara Mooring Area assigned by the Waterfront Director through a Mooring Permit to a Mooring Permittee for purposes of Mooring a vessel.

X. OPERABLE. A vessel's ability to maneuver safely under its own power from any place in the Harbor District to the open waters of the Pacific Ocean and back to its point of origin.

Y. RODE. All gear, collectively, that lies between a boat and its Anchor.

Z. SANTA BARBARA MOORING AREA. The area located in the City of Santa Barbara tidal waters east of Stearns Wharf as depicted on the reference map attached as Exhibit "A" to Chapter 17.20.

AA. SEASONAL ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20.

BB. SEWAGE. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

CC. SLIP. A docking space for a vessel within the Harbor.

DD. SLIP FEE. The monthly license fee paid by a slip permittee for berthing privileges in the Harbor, including the monthly fees paid for live-aboard privileges if applicable.

EE. SLIP PERMIT. A slip rental agreement issued by the Waterfront Director to a Slip Permittee to berth a vessel in a slip in the Santa Barbara Harbor.

FF. SPECIAL ACTIVITY MOORING PERMIT. A Mooring Permit issued by the Waterfront Director to individuals, organizations and governmental entities found to be operating research, scientific, clean-up or other functions necessary to the long-term health and operation of the Harbor District and marine environment, or critical to the safety, welfare and protection of persons and assets within the Harbor District.

GG. STEARNS WHARF. The wharf structure and all of its improvements located at the foot of State Street.

HH. TRANSFER FEE. The fee charged to transfer a Slip Permit.

II. VESSEL. A ~~self-propelled~~ craft whose physical characteristics indicate that it was designed and constructed for the purpose of carrying people or goods over water.¶

JJ. WATERFRONT. The Harbor, Stearns Wharf, West Beach and all City-owned or -operated parking lots and related structures and facilities along Cabrillo Boulevard or Shoreline Drive within the City of Santa Barbara. ¶¶

KK. WHARFAGE. The hourly rate assessed any vessel which uses or is tied up to any structure in the Harbor for the loading or unloading of merchandise, excluding the products of commercial fishing. ~~KK~~

LL. YEAR-ROUND ANCHORAGE. The area depicted on the reference map attached as Exhibit "A" to Chapter 17.20.

SECTION 2. Chapter 17.12 of Title 17 of the Santa Barbara Municipal Code is amended by adding Section 17.12.050 which reads as follows:

17.12.050. Vessels Berthed, Moored or Anchored in the Harbor District.

After December 1, 2015, only Vessels as defined in Section 17.04.010 II. shall be berthed, moored or anchored in the Harbor District. Man-made floating objects that are existing and berthed, moored or anchored in the Harbor District as of December 1, 2015, and do not meet the definition of "Vessel," as set forth in Section 17.04.010 II, shall be allowed to continue to berth, moor or anchor in the Harbor District and shall not be required to meet the definition of Vessel. All other requirements of Title 17 of the Santa Barbara Municipal Code shall apply to these man-made floating objects, with the following exceptions:

1. Waiver of operability requirements described in 17.20.005 K (I).
2. No length or beam variations after December 1, 2015.

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

SANTA BARBARA WATERFRONT



WATERFRONT DEPARTMENT

DEFINITION OF "VESSEL"

Ordinance Committee November 17, 2015

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Preliminary Note:

- Proposal to define "Vessel" has no effect on Department's Live-Aboard Program
 - State Lands agreement: 10% of slips (113)
 - Currently 98 permits assigned, 15 available
- "Vessel" definition addresses design and construction of man-made floating objects berthed, moored or anchored in the Harbor District, not live-aboard rules

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DEFINITION OF "VESSEL"

Examples of live-aboard boats range from small. . .

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DEFINITION OF "VESSEL"



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DEFINITION OF "VESSEL"

To large. . .

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DEFINITION OF "VESSEL"



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BACKGROUND

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DEFINITION OF “VESSEL”

- Interest in floating homes for decades
 - Not designed for, constructed for, or capable of ocean travel
- City has used “Navigability” and “Operability” Ordinances to discourage these practices
 - “Operable”: A vessel’s ability to maneuver safely under its own power from any place in the Harbor District to the open waters of the Pacific Ocean and back to its point of origin. (Ord. 5386, 2006.)

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DEFINITION OF “VESSEL”

- But “workarounds” with outboard engines, makeshift helms and temporary lookout stations persist, solely to pass operability tests
 - One-time ceremonial exercise. All other times, unless rigging for an operability test, these floating objects (homes) are incapable of ocean travel

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DEFINITION OF “VESSEL”

As a result. . .problem for the City:

- Currently no tools to prevent slip assignments for jury-rigged (stationary) floating objects in SB Harbor
- Proposed definition of “Vessel” would address this problem

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DEFINITION OF “VESSEL”

Examples of jury-rigged floating homes used to pass Navigability or Operability standards range from small. . .

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DEFINITION OF "VESSEL"

To large. . .

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Policies supporting need for definition of "Vessel"

- Coastal Act
 - Supports priority protections for recreational boating and commercial fishing
- Harbor Master Plan
 - Working Harbor, priority for commercial fishing and recreational boating
- Waterfront Department Slip Waiting List
 - 28 applicants
 - Many waiting decades to go boating

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DISCUSSION

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DEFINITION OF "VESSEL"

- 2013 Supreme Court Maritime Case
 - Not every structure that floats is a vessel. . .
 - *"A floating residence is not a vessel. . . unless a reasonable observer, looking to the home's physical characteristics and activities, would consider it to be designed . . . for carrying people or things on water."*
 - Court's ruling provided guidance for staff developing workable definition of "Vessel."

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DEFINITION OF "VESSEL"

- Currently four floating homes in Harbor District that do not meet the proposed definition of "Vessel"
 - Proposed Ordinance will have no effect on these because they pre-date December 1, 2015 or Ordinance adoption, whichever comes first
 - Again, no effect on live-aboard program

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DEFINITION OF "VESSEL"

- Harbor Commission reviewed proposed Ordinance in 2013, 2014 and 2015.
 - Recommended City Council adoption at September, 2015 meeting
- Staff met with owners of floating homes that would not meet "Vessel" definition; all support proposed Ordinance

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CONCLUSION

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DEFINITION OF "VESSEL"

- With adoption of proposed Ordinance, City will have legal means to deny berthing, mooring or anchoring in the Harbor District for man-made floating objects that do not meet the definition of "Vessel."
 - This would prevent proliferation of floating homes in Santa Barbara Harbor, where the City's priority obligations are to accommodate recreational boating and commercial fishing.

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SANTA BARBARA WATERFRONT

END

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