

ORDINANCE INTRODUCTION DRAFT
JUNE 29, 2010
SHOWING CHANGES FROM EXISTING CODE

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE 17 SECTIONS 17.18.050, 17.20.005 (I) AND (L), 17.20.255, 17.28.010, 17.28.020, AND 17.28.070 OF THE SANTA BARBARA MUNICIPAL CODE PERTAINING TO OPERATIONS AT THE WATERFRONT.

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

SECTION ONE. Section 17.18.050, Subsection 17.20.005 I and L, Section 17.20.255, Section 17.28.010, Section 17.28.020, Section 17.28.070 of Title 17 of the Santa Barbara Municipal Code are amended to read as follows:

17.18.050 Termination of Live-Aboard Permit.

~~**Termination, Suspension and Revocation.**~~

A. TERMINATION. A live-aboard permittee may terminate his or her ~~Live-~~**a**board permit upon thirty (30) days prior written notice of termination to the Waterfront Department.

B. TERMINATION BY WATERFRONT DIRECTOR. The Waterfront Director may terminate a Live-Aboard permit upon thirty (30) days prior written notice of termination to the Live-Aboard permittee for any of the following reasons:

1. Failure to Maintain Berthed Vessel in Operable Condition. The failure of a Live-Aboard permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005 L herein.

2. Failure of Live-Aboard Permittee to Comply with Waterfront Department Rules and Regulations. The failure of a Live-Aboard permittee or Live-Aboard permittee's "other occupant," guest or visitor to comply with all applicable local, state and federal laws and all waterfront Department Rules and Regulations.

C. ISSUANCE OF LIVE-ABOARD PERMIT AFTER TERMINATION.
A Live-Aboard permittee whose Live-Aboard permit is terminated as provided herein may not apply for a another Live-Aboard permit until six months after the date upon which the Live-Aboard permit is terminated. The Waterfront Director shall have the sole discretion to decide whether to issue another Live-Aboard permit or not. The Waterfront Director's decision shall be final.

~~**SUSPENSION.**~~

~~**1. Grounds.** The Waterfront Director may suspend a live-aboard~~

~~permit in the event that there is reasonable cause to believe that any of the following circumstances exist:~~

~~a. The live-aboard permittee knowingly made any false, misleading or fraudulent statement of a material fact in an application for the permit or in any report or record required to be filed pursuant to this Chapter.~~

~~b. The live-aboard permittee violated any provision of this Chapter, the regulations adopted pursuant hereto, or any ordinance relating to live-aboard activity.~~

~~2. Procedure. Upon determining that grounds for suspension of a permit exist, the Waterfront Director shall give written notice of intent to suspend (including the specific grounds therefore) to the live-aboard permittee or, if the live-aboard permittee cannot be located with reasonable effort, to any person aboard the vessel, including, if applicable, the "Other Occupants," or by written notice by mailing such notice to the address of the live-aboard permittee on file in the Harbormaster's Office. The suspension shall be effective fifteen (15) days following the giving of such notice, during which period the Waterfront Director shall allow the live-aboard permittee an opportunity (either in the form of a meeting with the Waterfront Director or the Director's designee or in writing, at the live-aboard permittee's option) to challenge the grounds for suspension and present evidence on his/her behalf. The Waterfront Director shall consider any such evidence and shall either rescind the notice of intent to suspend or impose the suspension on or before the effective date of the suspension.~~

~~C. REVOCATION.~~

~~1. Grounds. The Waterfront Director is authorized to revoke a live-aboard permit upon either of the following grounds:~~

~~a. If grounds for suspension exist pursuant to Subsection B.1 of this Section, and the live-aboard permit has been suspended on two or more prior occasions since the date of its issuance.~~

~~b. The revocation is necessary for the immediate preservation of the public peace, health or safety.~~

~~2. Procedure. Upon determining that grounds for revocation of a live-aboard permit exist, the Waterfront Director shall give written notice of intent to revoke (including the grounds therefore) to the permittee or, if the permittee cannot be located with reasonable effort, shall give such notice to any person aboard the vessel, or give notice by mailing to the address of the permittee on file in the Harbormaster's Office. The revocation shall be effective fifteen (15) days following the giving of such notice, during which period the Waterfront Director shall give the permittee an opportunity to challenge the grounds for revocation and present evidence on his/her behalf. The Waterfront Director shall consider any such evidence and shall either rescind the notice of intent or impose the revocation on or before the aforesaid fifteenth day.~~

CD. APPEAL. If A decision by the Waterfront Director terminates a Live-Aboard permit, the Live-Aboard permittee may request a waiver of the termination from the Waterfront Director. To request a waiver of the termination, the Live-Aboard permittee shall file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Live-Aboard permit is terminated. If the Waterfront Director denies the waiver, the Live-Aboard permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the Live-Aboard permittee may

appeal the Waterfront Director's decision to terminate the Live-Aboard permit to the Harbor Commission. The Live-Aboard permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) of the date of the Live-Aboard permit termination.

~~live-aboard permit pursuant to this Section shall be appealable to the Board of Harbor Commissioners. Any such appeal must be filed in writing with the Waterfront Director within three (3) days of the date of suspension or revocation. The suspension or revocation shall be stayed while the appeal is pending, unless it is determined by the Waterfront Director that immediate cessation of overnight occupancy of the vessel is necessary for the immediate preservation of the public peace, health or safety. The appeal shall be filed in writing and shall specify all of the grounds for the appeal. The Board of Harbor Commissioners shall provide the permittee an opportunity to present evidence on his/her behalf and to challenge the determination of the Waterfront Director. Formal rules of evidence or procedure need not be followed. The decision of the Harbor Commission on the appeal shall be final and conclusive. If the appeal is denied, suspension or revocation shall become effective three (3) days following the Board of Harbor Commissioners' decision. (Ord. 5420, 2007; Ord. 5273, 2003; Ord. 4757, 1992; Ord. 4387, 1986.)~~

17.20.005 Slip Assignment Policy.

I. WATERFRONT DIRECTOR TERMINATION OF SLIP PERMITS

The Waterfront Director may terminate a Slip Permit upon thirty days prior written notice of termination (except for the longer notice period provided in subsection 2 herein) to the slip permittee for any of the following reasons:

1. Late Payment of Monthly Slip Fees. Monthly Slip Fees are due and payable on the first day of the month with or without receipt of billing, and monthly Slip Fees are delinquent after the fifteenth day of the month. After the fifteenth day of the month, a late charge, in an amount established by resolution of the City Council, will be assessed and added to the Slip Fees which are delinquent. Failure to pay monthly Slip Fees, together with all accumulated late charges, may result in termination of the Slip Permit. Termination of a Slip Permit due to late payment of Slip Fees may also result in termination of a live-aboard permit that may have been issued to a slip permittee of the terminated Slip Permit.

2. Death of a Sole Slip Permittee. A Slip Permit shall terminate sixty (60) days after the date of death of a slip permittee under circumstances where the slip permittee has no surviving spouse, registered domestic partner or Slip Permit partners at the time of death.

3. Failure to Meet Requirements for Commercial Fishing Earnings. Failure of a person with a specially designated Commercial Fishing Slip Permit issued in accordance with Section 17.20.005.B herein to meet the requirements for commercial fishing earnings, as such earnings requirement is established by resolution of the City Council, may result in termination of the Commercial Fishing Slip Permit.

4. Failure to Maintain Berthed Vessel in Operable Condition. Failure of a slip permittee to continuously maintain a vessel berthed in a Slip in an Operable condition as required by Section 17.20.005.L herein may result in termination of the Slip Permit.

5. Failure of Slip Permittee to Comply With Waterfront Department Rules and Regulations. A slip permittee's or slip permittee's guest, visitor or invitee's failure to comply with all applicable local, state and federal laws and all Waterfront Department Rules and Regulations may result in termination of the Slip Permit.

J. APPEAL.

If the Waterfront Director terminates a Slip Permit, the slip permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the slip permittee must file a written waiver request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the Slip Permit is terminated. If the Waterfront Director denies the waiver, the slip permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the slip permittee may appeal the Waterfront Director's decision to terminate the Slip Permit to the Harbor Commission. The slip permittee must file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the Slip Permit is terminated. The Harbor Commission's decision on the appeal shall be final.

K. VESSELS IN THE HARBOR MUST BE OPERABLE.

1. Vessels Assigned to a Slip Permit Must be Maintained as Operable Vessels. Vessels assigned to a Slip Permit must be continuously maintained in an Operable condition. If, at any time, based upon the appearance of the vessel, inspection by the Waterfront Director, or other facts, the Waterfront Director determines that a vessel is not Operable, the Waterfront Director shall give notice to the slip permittee requiring the slip permittee to demonstrate that the vessel is Operable within fifteen (15) days of the date of the notice. If the slip permittee does not demonstrate Operability of the vessel within the fifteen (15) day period, the Slip Permit may be terminated and the vessel shall be removed from the Harbor.

a. Exception - Vessels Not Operable. Vessels that had assigned slips in the Santa Barbara Harbor on September 9, 1980, and which, on that date, were not Operable, shall be exempt from the operation of this section until transfer of the Slip Permit, after which time the Operability is required.

2. Vessels in the Harbor Must be Operable. Vessels in the Harbor must be continuously maintained as Operable Vessels. It shall be unlawful to berth a vessel in the Harbor that is not Operable.

L. ISSUANCE OF SLIP PERMIT AFTER TERMINATION. A slip permittee whose Slip Permit is terminated as provided herein may not apply for another Slip Permit until one-year after the date upon which the Slip Permit is terminated. The Waterfront Director shall have the sole discretion to decide whether to issue another Slip Permit or not. The Waterfront Director's decision shall be final.

17.20.255 Santa Barbara Mooring Area.

A. MOORING OF VESSELS IN THE HARBOR DISTRICT.

1. Unlawful Mooring in Harbor District. It is unlawful to place, erect, construct or maintain a Mooring in any area of the Harbor District without a current and valid Mooring Permit issued by the Waterfront Director or without the express permission of the Waterfront Director.

2. Unlawful Anchoring in Santa Barbara Mooring Area. It is unlawful for any person having charge of a vessel to Anchor a vessel in the Santa Barbara Mooring Area without express permission of the Waterfront Director.

B. MOORED VESSELS MUST BE OPERABLE.

1. Unlawful to Moor Inoperable Vessels. It shall be unlawful to Moor a vessel in the Santa Barbara Mooring Area that is not Operable.

2. Moored Vessels Must be Maintained as Operable Vessels. Vessels assigned to a Mooring Site in the Santa Barbara Mooring Area must be continuously maintained in an Operable condition. If, at any time, based upon the appearance of the vessel, inspection by the Waterfront Director, or other facts, the Waterfront Director determines that a vessel is not Operable, the Waterfront Director shall give notice to the Mooring Permittee requiring the Mooring Permittee to demonstrate that the vessel is Operable within fifteen (15) days of the date of the notice. If the Mooring Permittee does not demonstrate Operability of the vessel within the fifteen (15) day period, the Mooring Permit shall be terminated and the Mooring and vessel shall be removed from the Santa Barbara Mooring Area as required in the Mooring Permit Rules and Regulations. Vessels issued Special Activity Mooring Permits may be exempt from this provision, based on a determination of exemption by the Waterfront Director.

C. SANTA BARBARA MOORING AREA USE AND REGULATIONS.

1. Use of Mooring Sites. The Santa Barbara Mooring Area is divided into separate designated Mooring Sites. Mooring Sites shall be used only for the Mooring of Operable vessels and Dinghies by vessel owners who have been issued a Mooring Permit by the Waterfront Director. Mooring Sites shall not be used for commercial purposes without the express permission of the Waterfront Director. Mooring Permittees shall at all times use the Mooring Site in compliance with the Mooring Permit, Minimum Ground Tackle Specifications, this Chapter, and all local, state and federal rules. Failure to comply with all rules and regulations shall be cause for termination of a Mooring Permit.

2. Mooring Permit Administration.

a. Mooring Permits may be issued by the Waterfront Director in accordance with the Procedures for Conducting Lotteries for the Assignment and Issuance of Mooring Permits and the Mooring Permit Rules and Regulations adopted by Resolution of the City Council of the City of Santa Barbara.

b. Special Activity Mooring Permits may be issued by the Waterfront Director.

c. Mooring Permit, Term. A Mooring Permit shall be issued for a period of one year and may be renewed annually thereafter by the Waterfront Director.

d. A Mooring Permittee Shall Hold no More than One Permit. No person shall at any time be issued or hold more than one Mooring Permit.

e. Slip Permittees Not Eligible for Mooring Permits. Slip Permittees in Santa Barbara Harbor are not eligible for assignment of Mooring Permits in the Santa Barbara Mooring Area, and Mooring Permittees in Santa Barbara Mooring Area are not eligible for Slip Permits in Santa Barbara Harbor either through assignment or transfer, unless one of the permits is relinquished prior to issuance of the other permit.

f. Transfer of Permit. Mooring Permits are not transferable or inheritable.

g. Rental of Mooring Sites Prohibited. It shall be unlawful for any person issued a Mooring Permit to rent or lease (whether or not for compensation paid or other value), sublease or loan a Mooring Site to any other person or entity.

3. Termination of Mooring Permit. Mooring Permits may be terminated either by the Waterfront Director or the Mooring Permittee as provided in the Mooring Permit Rules and Regulations. Upon termination of the Mooring Permit, the vessel and Mooring shall be removed from the Santa Barbara Mooring Area in accordance with the Mooring Permit Rules and Regulations.

4. Failure to Timely Remove a Vessel or Mooring from the Santa Barbara Mooring Area. If the Mooring is not removed within the time provided for such removal in the Mooring Permit Rules and Regulations, title to the Mooring shall vest in the City. The City may, thereafter, remove and sell or dispose of the Mooring and recover the removal, storage or disposal costs from the Mooring Permittee. If the Mooring Permittee fails to pay such cost, the Waterfront Director may collect such costs in any court of competent jurisdiction or may recover any costs from the proceeds of sale of the Mooring. Vessels not removed from the Mooring Site within the time provided in the Mooring Permit Rules and Regulations shall be impounded by the City and subject to storage fees, disposal or lien sale proceedings as provided by law.

5. Appeal of Mooring Permit Termination. If the Waterfront Director terminates a Mooring Permit, the mooring permittee may request a waiver of the termination from the Waterfront Director. To request a waiver, the mooring permittee must file a written request setting forth the grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date of termination under Section D 1 or D 2 of the Rules and Regulations of Mooring Permits. If the Waterfront Director denies the waiver, the Mooring permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision on the waiver. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the mooring permittee may appeal the termination to the Harbor Commission. The mooring permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date of termination under Section D 1 or D 2 of the Rules and Regulations of Mooring. ~~A Mooring Permittee may appeal a Mooring Permit termination to the Harbor Commission, whose decision shall be final. Any appeal must be submitted in writing stating the grounds for appeal and filed with the City Clerk's Office within ten (10) days of the date of notification of Mooring Permit termination.~~

D. MOORING INSTALLATION REQUIREMENTS AND ANNUAL INSPECTION.

1. Mooring Installation. If offered a Mooring Permit, an individual shall place a Mooring and vessel in the Mooring Site designated in the Mooring Permit within ninety (90) days of acceptance of the Mooring Permit offer. The Mooring placement shall be made in accordance with the Minimum Ground Tackle Specifications by a City-Approved Mooring Inspector. If the Mooring and vessel are not timely placed in the Mooring Site, or if the Mooring is not approved as required by the Mooring Permit Rules and Regulations, no Mooring Permit shall be issued.

2. Mooring Position. Any vessel moored in a Mooring Site within the City of Santa Barbara Mooring Area shall be firmly secured to a Mooring in such a manner as to prevent the vessel from drifting, dragging or otherwise moving off the Mooring Site. If the Waterfront Director determines that the migration of a vessel off the

Mooring Site may cause an immediate threat or danger to life, property or the environment, the Waterfront Director may take action deemed necessary to abate such hazard. Any costs incurred by such abatement shall be borne by the Mooring Permittee.

3. Mooring Inspections. Moorings shall be inspected by a City-Approved Mooring Inspector upon installation at the Mooring Site and annually thereafter on each anniversary date of the issuance of the Mooring Permit (or more frequently at the Permittee's option or as deemed necessary by the Waterfront Director) to determine compliance with Minimum Ground Tackle Specifications. The installation and inspection shall be performed in accordance with the Mooring Permit Rules and Regulations by a City-Approved Mooring Inspector at the Mooring Permittee's sole cost and expense.

17.28.010 Permit Required - ~~Solicitation or Business Activity.~~

Except as expressly authorized in writing by the Waterfront Director or his or her designee, no person shall engage in any business or commercial activity of any kind whatsoever in the Harbor District without first having applied for and obtained the appropriate license, lease or permit. ~~It is unlawful for any person, other than a Harbor lessee or sub-lessee or his employee, to peddle or solicit in any public area within the Harbor, or upon the waters of the Harbor, or to engage in any business or commercial activity or service, without first receiving a permit from the Waterfront Director, and without complying with all applicable ordinances of the City. Notwithstanding the provisions of this section, an individual boat owner occupying a slip in the Harbor shall not be required to obtain a permit for selling his own boat occupying the slip. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)~~

17.28.020 Permission Required - Advertising.

It shall be unlawful to erect, repair, alter, relocate or maintain any post, distribute or display signs, commercial advertisements or circulars within the Harbor District, or to direct or authorize another person to do so, except pursuant to a sign permit obtained in accordance with Chapter 22.70 of the Santa Barbara Municipal Code unless the sign is specifically exempted from the permit requirements as provided in Chapter 22.70. ~~It is unlawful for any person to post, distribute or display signs, commercial advertisements or circulars in any public area within the Harbor or on the waters of the Harbor, without first receiving permission from the Waterfront Director and without complying with all applicable ordinances of the City. Notwithstanding the provisions of this section, an individual boat owner occupying a slip in the Harbor shall not be required to obtain a permit to display a~~

The requirements of this Chapter shall not apply to a "For Sale" sign displayed on a vessel occupying a slip his own boat by the owner of the vessel, a occupying said slip. Also allowed, at the discretion of the Waterfront Director, are sign, s and an announcement, or a flyer s of non-profit making organizations of Harbor boat owners and flyers and advertisements posted on a bulletin boards provided on a Marina gates. (Ord. 4757, 1992; Ord. 3517 §2(part), 1972.)

17.28.070 Appeal to Board of Harbor Commissioners.

If the Waterfront Director denies or revokes a Business Activity Permit, the permittee may request a waiver of the denial or revocation from the Waterfront Director. To request a waiver, the permittee must file a written waiver request setting forth the

grounds upon which the waiver is requested with the Waterfront Director within ten (10) days of the date that the permit is denied or revoked. If the Waterfront Director denies the waiver, the permittee may appeal the Waterfront Director's decision to the Harbor Commission. The appeal shall be filed in writing with the City Clerk within ten (10) days of the date of the Waterfront Director's decision. The Harbor Commission's decision on the appeal shall be final. If no waiver request is filed, the permittee may appeal the Waterfront Director's decision to deny or revoke the permit to the Harbor Commission. The permittee shall file a written appeal setting forth the grounds upon which the appeal is based with the City Clerk within ten (10) days of the date that the permit is denied or revoked. The Harbor Commission's decision on the appeal shall be final. ~~A decision of the Waterfront Director granting, denying or revoking a Business Activity Permit, may be appealed to the Board of Harbor Commissioners. A written notice of appeal shall be filed within seven (7) days with the City Clerk, stating grounds for appeal, after the date of the Waterfront Director's decision. The appeal shall be placed on the Harbor Commissioners next, or earliest possible meeting. The appellant shall be given written notice of the time and place of the meeting at which his appeal will be considered. The decision of the Board of Harbor Commissioners shall be final. (Ord. 4757, 1992; Ord. 3517 §2(part), 197~~