

RESOLUTION NO. ~~07-041~~

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING A SLIP OCCUPANCY POLICY FOR DESIGNATED COMMERCIAL FISHING SLIPS IN SANTA BARBARA HARBOR AND REPEALING RESOLUTION ~~07-041~~ 04-124

WHEREAS, the Santa Barbara Harbor serves a variety of functions including that of being a working harbor for commercial fishermen;

WHEREAS, it is the desire of the City Council that the harbor continue to serve the needs of commercial fishermen; and

WHEREAS, those needs can best be met if certain criteria are established to ensure that spaces are allotted to persons who are engaged in commercial fishing, while at the same time minimizing disruption to the operations of commercial fishermen who currently ~~moor~~ berth their fishing vessels at the harbor.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA AS FOLLOWS:

SECTION 1. This policy applies to commercial fishermen granted preferential consideration for assignment of slips in Santa Barbara Harbor off the Waterfront Department's Slip Waiting List, and to fishermen assigned slips in Fish Float North, Fish Float South and 18 slips in Marina 1-A, specially designated by the Waterfront Director.

SECTION 2. No slip in Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A shall be assigned or transferred to a permittee who does not meet the criteria for a "commercial fisherman" established by this policy. Any permittee subject to such criteria shall be required to satisfy the standards applicable to commercial fishing as long as the slip is occupied. The criteria established by this policy shall also apply to permittees identified in ~~Paragraphs~~ Sections 13 and 14 hereof.

SECTION 3. A "commercial fisherman" pursuant to this policy shall have and maintain a commercial fishing or aquaculture permit issued by the California Department of Fish and Game and shall have and maintain a Fish and Game permit for the vessel that is ~~moored~~ berthed in the harbor slip as a commercial fishing vessel.

SECTION 4. A "commercial fisherman" pursuant to this policy shall be required to document, in a manner satisfactory to the Waterfront Director, income from commercial fishing that is at least \$15,000 every two years following issuance of the slip permit. ~~This earnings requirement shall become effective the first day following completion of earnings period in effect for any designated commercial fishing slip at~~

~~the time this Resolution is adopted by City Council.~~ In some cases, as described in ~~paragraph Section~~ 12 of this Resolution, the requirement shall also be applied during the immediate two-year period preceding the issuance of the permit. Proof of income shall be provided by Fish and Game landing receipts issued to the permittee, plus landing receipt records provided by the Department of Fish and Game's Custodian of Records. Earnings pursuant to Section 6 shall be in a form acceptable to the Waterfront Director. For aquaculture operations, receipts indicating the value of product delivered or monthly aquaculture tax reports of harvest in pounds may be used to confirm earnings.

SECTION 5. Once a slip permit is issued, 50% of the income requirement must be earned aboard the vessel assigned to the designated slip. Up to 50% of the income requirement may derive from a permittee's employment aboard a commercial fishing vessel or vessels other than the designated vessel, demonstrated by a combination of cancelled payroll checks or their equivalent, plus copies of Internal Revenue Service 1099 or W2 tax forms.

SECTION 6. Earnings from sustainable-fisheries research or activities may apply to the minimum earnings requirement if authorized in writing by the Waterfront Director prior to the research.

SECTION 7. If a commercial fisherman's vessel is destroyed or ruined, by accident, damage, fire, sinking or other unintended casualty, the permittee may, upon written approval of the Waterfront Director within 30 days of that loss, be granted an extension up to one year in which to meet the earnings requirement.

SECTION 8. If a permittee believes commercial fishing in general or a specific commercial fishery in the Santa Barbara Channel region upon which he/she depends has been rendered infeasible for a significant period due to natural disaster, climatic shift, regulatory action or other reason, he/she may request that the Waterfront Director temporarily waive the time requirement for proof of earnings for a period not to exceed one year. Any request for temporary waiver must be submitted at least 60 days before expiration of the earnings period in effect at the time. The Director's decision regarding the waiver request shall be final.

SECTION 9. If illness or extended family emergency precludes a permittee's ability to demonstrate sufficient earnings during a given earnings period, he/she may request that the Waterfront Director temporarily waive the time requirement for proof of earnings for a period not to exceed one year. Any request for temporary waiver must be submitted at least 60 days before expiration of the earnings period in effect at the time. The Director's decision regarding the waiver request shall be final.

SECTION 10. Persons holding slip permits in Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A prior to July 1, 2001 need not comply with the provisions of this policy. The provisions of this policy will be applied to any person to whom a slip in these areas is transferred or assigned on or after July 1, 2001.

SECTION 11. Any slip permittee not subject to the provisions of this policy per ~~paragraph Section~~ 10, may exchange his or her vessel for a different one (change boats) without triggering application of eligibility criteria, as long as the new vessel is and remains licensed as a commercial fishing craft, as outlined in ~~Paragraphs Section~~ 3.

SECTION 12. Slip permittees in Marina 1-A who are otherwise exempt from this policy per ~~paragraph Section~~ 10 may elect to become subject to its provisions in exchange for a slip fee reduction to levels commensurate with monthly rates in Fish Float North and Fish Float South. To exercise this option, a permittee must meet and continue to meet criteria established by this policy for commercial fishermen. In addition, they must provide proof of earnings equaling at least \$15,000 from commercial fishing during the immediate two-year period preceding the election. Once made, this election may not be reversed.

SECTION 13. A commercial fisherman who successfully meets earnings requirements during at least three complete and successive earnings periods, beginning with the earnings period in effect on June 6, 2007, including the earnings period in effect at the time of adoption of this Resolution, may lease his/her boat to another party for the purpose of continuing to meet those requirements. The Waterfront Director must approve said lease agreement before earnings can be credited to the slip permittee and his/her vessel. Following approval of the lease agreement, 100% at least 50% of earnings intended to meet the earnings requirement must be made by the lessee aboard the vessel assigned to the permitted slip in Santa Barbara Harbor, proof of which must be demonstrated by requirements outlined in Section 4. Up to 50% of the income requirement may derive from the lessee's employment aboard a commercial fishing vessel or vessels other than the designated vessel, demonstrated by a combination of cancelled payroll checks or their equivalent, plus copies of Internal Revenue Service 1099 tax forms or W2 tax forms.

SECTION 14. A transfer of a slip permit by a person subject to this policy shall be allowed only if the new permittee agrees in writing to earn and report any required commercial fishing earnings not accrued by the current permittee for the then-current earnings period. At the completion of that earnings period, a new earnings period for earnings compliance will commence.

SECTION 15. Permittees who transfer into or who are assigned slips subject to this policy may apply for Business Activity Permits (as available) for passenger-carrying charters accommodating up to six persons per trip. Income from operations authorized by such permits may not be applied against the minimum earnings requirements. Those earnings must be satisfied from commercial fishing activities only.

SECTION 16. Any slip in areas of the harbor described in Section 1 ~~Vacant slips in Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A~~

that revert to the City will be assigned to the next qualified commercial fisherman who meets the requirements of this policy and is registered for a slip of that size on the Waterfront Department's waiting list. If no such applicant is available on the waiting list, the slip will be assigned to a commercial fisherman who in the preceding two-year period meets the income requirements of this policy, following an advertised lottery conducted by the Waterfront Department. This element of the policy applies until a future waiting-list policy for Fish Float North, Fish Float South and the 18 specially designated slips in Marina 1-A, or for the overall harbor, supersedes it.

SECTION 17. Any slip permittee from any part of the harbor outside the slips designated in ~~Paragraph~~Section 1 who exchanges slips with a slip permittee within this area must comply with the provisions of this policy in the same manner as any other transferee or assignee, including meeting earnings requirements.

SECTION 18. It is the intention of the City that this policy be reviewed every three years.