



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: July 15, 2008
TO: Ordinance Committee
FROM: Administrative Division, Waterfront Department
SUBJECT: Municipal Code Title 17 Amendments Related To The Waterfront

RECOMMENDATION:

That the Ordinance Committee forward a recommendation to City Council to approve an ordinance amending portions of Municipal Code Title 17.

DISCUSSION:

Waterfront Department staff annually reviews Title 17 of the Santa Barbara Municipal Code to ensure that it provides a legal framework to accurately and adequately implement policies, practices and procedures utilized to fairly, comprehensively and decisively administer Waterfront affairs. Staff recommends amendments to Title 17 it believes are in keeping with these objectives.

Staff has worked with the City Attorney's Office to identify sections of Title 17 it believes need to be added, deleted or amended. Attached to this report is a draft ordinance in a "showing changes" format that indicates recommended changes. Some changes are minor while others are substantive. This report identifies three "issue areas" that constitute substantive amendments to Title 17. Three other non-substantive changes related to the discharge of contaminants into Harbor District waters, mooring or anchoring near swim buoys, and the timing of Business Activity Permit renewals are not addressed in this report, though they are included in the attached draft ordinance. Staff is prepared to answer questions about any of the proposed changes.

17.12.170 Power Driven Vessels and Sail Vessels In Swim Areas

During summer months, the Waterfront Department deploys regulatory buoys ("swim buoys") approximately 200 feet offshore from Leadbetter Beach to East Beach (including West Beach). The swim buoys designate areas intended primarily for swimming. For safety reasons, the Municipal Code currently precludes motor vessels from operating within areas designated by these buoys.

As part of the draft ordinance, staff proposes to also prohibit sail vessels from operating within these areas, for three primary reasons: 1) sail vessels, large or small, pose as great a danger to swimmers as power boats—some, in fact, may be under power when

operating; 2) a “close call” between a swimmer and a sailboat operating inside the buoys last summer drew attention to the need for this regulatory change; and 3) a survey of other harbors indicates that those jurisdictions placing these types of buoys generally only allow swimming within their boundaries.

It is important to note that the proposed ordinance includes discretionary language giving the Waterfront Director authority to authorize vessel activity inside the swim buoys. One example is the Sea Shell Association, which operates small sailboats on Sundays off West Beach—an area traditionally used for quiet-water sailing. In addition, human-powered craft such as kayaks would not be prohibited from operating within these areas.

17.20.005 (K) Slip Assignment Policy—Appeals

This section describes the process by which a slip permittee may appeal the Waterfront Director’s decision to terminate a slip permit. Until 2007, Title 17 contained a provision allowing a slip permittee the opportunity to seek a waiver from the Waterfront Director of his/her decision to terminate a slip permit. The permittee was required to demonstrate that the termination would cause them “undue hardship.” If the Waterfront Director denied the waiver request, the permittee could appeal to the Harbor Commission.

In 2007, this section of the Code was amended to remove the waiver provision. This action was taken due to a concern that the waiver request constituted an unnecessary, time-consuming, intermediary step to Harbor Commission review of an appeal and because of ambiguities created by the “undue hardship” requirement.

Staff, however, has since determined that the opportunity to request a waiver from the Waterfront Director *does* have value. The draft ordinance language reinstates the waiver process but requires the slip permittee to state “grounds” for waiver instead of “undue hardship.” This process would allow the appellant to describe whatever facts or circumstances he or she wishes the Waterfront Director, or, ultimately, the Harbor Commission, to consider. In the event that the Waterfront Director denies the waiver request, or if no waiver request is filed, an appeal may still be made to the Harbor Commission. The decision of the Harbor Commission is final.

17.20.220 Impound and Relocation of Vessels

Boaters occasionally dock in the Santa Barbara Harbor without permission from the Waterfront Director or without paying visitor slip fees or accrued berthing fees. On occasion, boaters also refuse to leave the Harbor after the 28-day visitor limit.

The amended section of the Municipal Code, which previously only addressed “removal” of vessels for which fees were not paid, adds the authority to impound vessels whose owners do not pay their fees or vessels whose owners dock, berth, moor or anchor in City waters without permission. New language also gives the Department

a means by which it can charge impound fees for accrued time spent without permission in the harbor, plus all delinquent berthing fees, before the vessel is released.

The proposed changes will help deter such violations, help the Department enforce its visitor-boat berthing policies and help recover thousands of dollars in berthing fees that might otherwise go unpaid. Allowing impound of such vessels would also allow the City to deny an owner's access to a vessel until payments are made current. This would deter people from berthing illegally and staying aboard their boat without consequence.

CONCLUSION:

Staff believes adoption of the proposed Title 17 amendments will help clarify the Code in ways consistent with its intent and with the fair and comprehensive administration of Waterfront affairs. At its June 19th meeting, the Harbor Commission unanimously supported the draft changes. Pending a favorable recommendation from the Ordinance Committee, staff will present the draft Ordinance for City Council review in early August.

ATTACHMENT: Draft Ordinance
PREPARED BY: Mick Kronman, Harbor Operations Manager
SUBMITTED BY: John N. Bridley, Waterfront Director
APPROVED BY: City Administrator's Office

ORDINANCE COMMITTEE DRAFT
JULY 15, 2008
SHOWING CHANGES FROM EXISTING CODE

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE 17 SECTIONS 17.12.170, 17.16.010, 17.20.005 K, 17.20.220, 17.20.260, 17.28.030 AND 17.36.070 PERTAINING TO OPERATIONS AT THE WATERFRONT AND REPEALING SECTION 17.20.210.

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

SECTION 1. Section 17.12.170, Section 17.16.010, Section 17.20.005 K, Section 17.20.220, Section 17.20.260, Section 17.28.030 and Section 17.36.070 of Title 17 of the Santa Barbara Municipal Code are amended to read as follows:

17.12.170 Power Driven Vessels And Sail Vessels In Swim ~~Near~~

~~Bathing~~ Areas.

It shall be unlawful to ~~No person shall~~ operate a power driven vessel, or a sail vessel, within any designated swim~~bathing~~ ~~beach~~ area in the Harbor District unless authorized by the Waterfront Director. Swim areas shall be designated by the placement of regulatory buoys. ~~in the Harbor.~~

17.16.010 Discharge of Contaminants into Harbor District Waters

Unlawful.

It is unlawful for any person to discharge, either directly or indirectly, any pollutant or contaminating substance or material, including rubbish, trash, litter, sewage, or refuse of

any kind into the waters of the Santa Barbara Harbor District. The terms "pollutant" or "contaminating substance" also includes ballast water, bilge water or waste water containing or contaminated with any paint, varnish or other insoluble products in a liquid state. The terms "pollutant" or "contaminating substance" shall not include "wash down water", engine discharge or exhaust gas or substances normally contained in such discharges or exhausts, or galley sink, shower or hand basin water.

17.20.005 Slip Assignment Policy.

K. 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.

17.20.220 ~~Removal~~ Impound and Relocation of Vessels ~~for Which~~
~~Fees are Not Paid.~~

A. IMPOUND AND RELOCATION OF VESSELS BERTHED, DOCKED,
MOORED OR ANCHORED IN THE HARBOR DISTRICT WITHOUT WATERFRONT
DIRECTOR PERMISSION.

A vessel berthed, docked, moored or anchored in the Harbor
District without Waterfront Director permission may be impounded
in its location, including a dock, pier, slip, wharf or open
ocean, or may be relocated and impounded ~~slip or may be removed~~
~~from its slip and placed and kept~~ in another area ~~inside or~~
~~outside~~ in the Harbor District designated by the Waterfront
Director.

B. IMPOUND AND RELOCATION OF VESSELS FOR DELINQUENT FEES.

A vessel whose owner is delinquent on the payment of Slip
or other fees to the Waterfront Department may be impounded in
its location, including a dock, pier, slip, wharf or open ocean
of the Harbor District, or may be relocated and impounded in
another area in the Harbor District designated by the Waterfront

Director.

C. Payment of Impound Fee.

The owner of any vessel impounded under either section A or B of this section, whether relocated or not, shall pay an impound fee established by Resolution of the City Council, in addition to any storage or delinquent fees, to the Waterfront Director prior to release of the vessel.

17.20.260 Anchoring Vessels Within the Santa Barbara Year-Round and Seasonal Anchorages.

A. ANCHORING IN YEAR-ROUND ANCHORAGE AREAS. Subject to compliance with the rules and regulations of the Waterfront Department, this Chapter, and all applicable state and Federal laws, vessels may Anchor at any time in the Year-Round Anchorage.

B. ANCHORING IN SEASONAL ANCHORAGE AREAS. Subject to compliance with the rules and regulations of the Waterfront Department, this Chapter, and all applicable state and Federal laws, vessels may Anchor in the Seasonal Anchorage during the months of April through October. It is unlawful to Anchor in the Seasonal Anchorage during the months of November through March.

C. ANCHORED VESSELS MUST BE OPERABLE. Vessels Anchoring in the Year-Round or Seasonal Anchorages must be continuously maintained as Operable vessels. It shall be unlawful to Anchor

a vessel in the Year-Round or Seasonal Anchorage that is not Operable.

D. UNLAWFUL MOORING AND ANCHORING. It shall be unlawful to (i) Moor a vessel at any time, (ii) Moor or Anchor a vessel within 100 feet of any swim area designated by the placement of regulatory buoys or, (iii) ~~to~~ leave Anchoring Equipment unattended without an attached vessel in the Seasonal ~~or~~and Year-round Anchorages.

E. CITY REMOVAL OF MOORING OR ANCHORING EQUIPMENT. Any unlawfully placed Mooring or abandoned Anchoring Equipment may be removed by the City and sold or otherwise disposed of by the City as abandoned property. In addition to any fees incurred pursuant to Section 17.20.260.D, the City may recover the costs of removal, storage, or disposal of the Mooring or Anchoring Equipment from the vessel's owner.

17.28.030 Permit Fee and Duration.

A fee, established by resolution of City Council, shall be charged by the Waterfront Director for each Business Activity Permit issued pursuant to this chapter. The permit extends for a period of one (1) year, beginning on August 1 of each year and expiring on July 31 of each year.

17.36.070 Oversized Vehicles in Harbor Parking Lot.

All vehicles over twenty feet (20') in length are

prohibited from parking in the Harbor Parking Lot, excepting those vehicles exempted by resolution of City Council.

SECTION 2. Chapter 17.20 of Title 17 of the Santa Barbara Municipal Code is amended by repealing Section 17.20.210 ("Effect of Sale of Ground Tackle").

~~17.20.210 Effect of Sale of Ground Tackle.~~

~~—The sale by an owner of any mooring or ground tackle used to moor or anchor any vessel in the Harbor shall not transfer to the purchase of such mooring or ground tackle, the space previously rented or used by the owner of such mooring or ground tackle, and if the Harbormaster deems it necessary or proper to have such mooring or ground tackle removed, the owner shall upon notice remove the mooring or ground tackle within ten (10) days after receipt of such notice.~~