RESOLUTION NO. 09-075

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING RULES AND REGULATIONS FOR ISSUING MOORING PERMITS IN THE CITY OF SANTA BARBARA MOORING AREA, SETTING MINIMUM SPECIFICATIONS FOR INSTALLING, INSPECTING AND REPAIRING SUCH MOORINGS AND REPEALING RESOLUTION 07-040

WHEREAS, the Santa Barbara Mooring Area is established in Santa Barbara Municipal Code Chapter 17.20;

WHEREAS, the Santa Barbara Mooring Area, as established in Santa Barbara Municipal Code Chapter 17.20, requires that all vessels moored within the area possess mooring permits;

WHEREAS, the rules and regulations for Mooring Permits issued for Mooring Sites within the Santa Barbara Mooring Area are set forth herein;

WHEREAS, pursuant to SBMC Chapter 17.20 mooring permits for available Mooring Sites within the Santa Barbara Mooring Area are issued by the Waterfront Department pursuant to a lottery process;

WHEREAS, the City procedure for conducting the mooring lotteries and assigning Mooring Permits are set forth herein;

WHEREAS, in order to implement the Santa Barbara Mooring Area procedures and polices including the intent to protect the natural environment of the Mooring Area and assets of the City and to ensure safe navigation, minimum Ground Tackle Specifications are appropriate;

WHEREAS, the issuance and renewal of Mooring permits to individuals for Moorings in the Santa Barbara Mooring Area requires the adherence to rules and regulations for installing, inspecting and repairing Moorings in the Santa Barbara Mooring Area;

WHEREAS, SBMC Section 17.20.255 of the Santa Barbara Municipal Code describes requirements for installation, inspection and repair of Moorings in the Santa Barbara Mooring Area;

WHEREAS, SBMC Section 17.20.255 declares that the installation, inspection, and repair of Moorings in the Santa Barbara Mooring Area shall be conducted only by contractors on the City Approved Mooring Inspectors List; and

WHEREAS, the Waterfront Director may, from time to time, amend the list of City Approved Mooring Inspectors to facilitate fair, orderly and equitable administration of the Santa Barbara Mooring Area;

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

Section 1. Establishing Rules and Regulations for Mooring Permits in the Santa Barbara Mooring Area.

A. LOTTERY FOR THE OFFER OF MOORING PERMITS IN THE SANTA BARBARA MOORING AREA

Mooring Permits in the Santa Barbara Mooring Area shall be allocated to applicants by lottery according to rankings created pursuant to the following procedures. Mooring Permits (except for Special Activity Mooring Permits issued by the Waterfront Director) in the Santa Barbara Mooring Area shall be offered for assignment as established herein. The Waterfront Director shall assign Mooring Sites to ranked Lottery applicants, taking into consideration size and type (power or sail) of the vessel, as well as any other information or vessel specifications pertinent to the assignment and the overall orderliness and safety of the Santa Barbara Mooring Area.

1. Lottery Participation Request. To participate in a lottery for assignment of a Mooring Permit in the Santa Barbara Mooring Area, an applicant must submit a completed Lottery Participation Request form to the Waterfront Department. Lottery Participation Request forms shall be submitted to and received by the Waterfront Department within a designated time period that shall conclude no later than two (2) weeks prior to the Harbor Commission hearing scheduled for the lottery drawing. The opening date and duration of the time period for submission of Lottery Participation Requests to the Waterfront Department shall be publicly noticed and shall be posted at the Waterfront Department. During this time period, Lottery Participation Request forms may be obtained from the Waterfront Department during normal business hours. An individual may submit only one Lottery Participation Request. At the conclusion of the time period for accepting Lottery Participation Requests, the Waterfront Department shall place all completed Lottery Participation Requests in a sealed folder ("Request Folder").

2. Lottery Formation. A lottery shall be conducted by a drawing of Lottery Participation Requests from the Request Folder by the Harbor Commission Chair during a scheduled public hearing. At the hearing, the Harbor Commission Chair shall draw, by lot, and rank all Lottery Participation Requests for the purpose of assigning Mooring Sites in the Santa Barbara Mooring Area.

3. Lottery Ranking. The Commission Chair shall rank the Lottery Participation Requests according to the order in which each Lottery Participation Request is drawn from the Request Folder. The first applicant whose Lottery Participation Request is drawn from the Request Folder shall be ranked number one. The second applicant whose Lottery Participation Request is drawn from the Request Folder shall be ranked number two and so on until all Lottery Participation Requests are ranked. The Waterfront Director shall mail to each participant a notice of each participant's ranking and a description of the number and size of available Mooring Sites intended for assignment from that lottery.

4. Application. The Waterfront Director shall mail a Mooring Permit Application and a copy of the Minimum Ground Tackle Specifications to prospective Mooring Permittees whose lottery ranking corresponds to assignment opportunities in the Santa Barbara Mooring Area. The Mooring Permit Application shall be returned to the Waterfront Department within fourteen (14) days of the date that the Waterfront Director mails notification of Mooring Site availability. A complete application for a Mooring Permit shall contain, in addition to other information as may be requested by the Waterfront Department, a general description of the size and type of vessel proposed to occupy a Mooring Site in the Santa Barbara Mooring Area. Should an applicant fail to timely submit a completed application or fail to perform obligations necessary to secure an approved Mooring Permit, the next highest ranking Lottery Participant shall be mailed notice of an offer for Mooring Site assignment. This process shall continue until available Mooring Permits are assigned and approved by the Waterfront Director, or all Lottery Participation Requests from that lottery have been exhausted. Should the number of Lottery Participation Requests exceed the number of Mooring Permits assigned, the excess Lottery Participation Requests not offered assignment shall be discarded.

5. Grandfather Lottery. An initial lottery, held pursuant to procedures outlined in this section, shall be restricted to individuals who, according to Waterfront Department records, utilized the East Beach anchorage, including establishing presence of a vessel, during a designated window period of November 2, 2005 through March 1, 2006. In addition, any individual holding a valid, approved, non-discontinued U.S. Coast Guard Private Aids to Navigation permit for establishment of a mooring buoy East of Stearns Wharf as of April 19, 2006 shall be included in the Grandfather Lottery. To be eligible under this provision, the permittee must provide proof of a valid U.S. Coast Guard Private Aids to Navigation Permit to the Waterfront Director no later than 5:00 p.m. on May 15, 2006. If the total number of Mooring Permits assigned from the Grandfather Lottery equals thirty (30) or fewer, a subsequent lottery will be held pursuant to procedures outlined in this Resolution.

6. Subsequent Lottery. Anytime the total number of Mooring Permits assigned in the Santa Barbara Mooring Area declines to thirty (30) or fewer, a lottery shall be held following procedures established herein. These subsequent lotteries shall be open to the general public. Such lotteries shall be conducted at the discretion of the Waterfront Director and no more frequently than one year apart.

B. OFFER, ACCEPTANCE AND RENEWAL OF MOORING PERMITS

1. General. A permit to moor a vessel in the Santa Barbara Mooring Area shall be offered, in order, to each individual ranked during the lottery process described herein, within 30 days of the Lottery, up to a total number of offers determined by the Waterfront Director.

2. Permit Offers. Mooring Permit offers shall be sent by U.S. Certified Mail, to the individual's address indicated on the Lottery Participation Request form. The individual offered a Mooring Permit shall have 14 calendar days from the date of mailing to respond in person or by mail by returning a completed application indicating their intention to accept or decline the offer. Late postmarks shall not be accepted.

3. Accepted Offers. If an offer is accepted, the prospective mooring permittee shall have 90 days to place a vessel of approved size on the Mooring Site, provide vessel ownership documentation consisting of applicable Department of Motor Vehicle registration or Coast Guard documentation, pay all fees due, and prove compliance with Minimum Ground Tackle Specifications as established by City Council Resolution.

4. Declined Offers. If an offer is declined or not returned to the Waterfront Department in a timely fashion, that individual's name shall be removed from consideration for assignment in that lottery.

5. Permit Duration. Permits shall be offered for a period of one year from the date of issuance.

6. Permit renewal. Permits may be renewed annually, dependent upon compliance with all Mooring Permit Rules and Regulations and the Minimum Ground Tackle Specifications. Failure to meet these requirements is grounds for permit termination as described herein.

7. Non-Transferable. Mooring Permits are not transferable or inheritable.

C. ISSUANCE OF MOORING PERMIT.

1. Issuance. Mooring Permits issued by the Waterfront Director shall be issued for designated Mooring Sites. The Waterfront Director shall have full and absolute discretion to designate Mooring Sites to Permittees. The Waterfront Director may base a determination regarding the designation of Mooring Sites on criteria including size and type of vessel (power or sail), and any other information or vessel specifications pertinent to the assignment and the overall orderliness and safety of the Santa Barbara Mooring Area. Mooring Permits may be issued upon satisfactory completion of the Mooring installation by the City Approved Mooring Inspector.

2. Relocation. The Waterfront Director may relocate vessels to other Mooring Sites within the Santa Barbara Mooring Area in the interest of safety, space limitations, traffic, and reduction of risk due to fire, sinking, breakaway or collision. The Waterfront Department shall pay the reasonable costs to relocate a vessel and Mooring to an alternate Mooring Site if such relocation is required by the Waterfront Director. If such relocation is made at the request of a Permittee, the Permittee shall bear all Mooring and vessel relocation costs.

3. Mooring Permits Shall be Issued for Identified vessels only as follows:

a. Mooring Permit shall be issued only for a specifically designated vessel owned by the Mooring Permittee. Proof of ownership of the designated vessel must be supplied to the Waterfront Director at the time of Mooring Permit assignment and annually thereafter at each Mooring Permit renewal in the form of a current California Department of Motor Vehicles Registration or United States Coast Guard Document.

b. If a vessel designated on a Mooring Permit is sold, destroyed or ruined by accident, damage, fire, sinking or other casualty, the Mooring Permittee may be allowed to place a replacement vessel owned by the Mooring Permittee, as such ownership is demonstrated as required herein, in the Mooring Site. Such replacement vessel shall comply with size restrictions determined by the Waterfront Director as appropriate for vessels assigned to the Mooring Site receiving the replacement vessel. Upon approval by the Waterfront Director, a Mooring Permit describing the replacement vessel shall be issued for the remaining term of the existing Mooring Permit. If an approved replacement vessel is not procured within ninety (90) days of the date that the designated vessel is removed from the Mooring Site, either by sale or casualty, the Mooring Permit shall terminate as provided herein.

4. Vessel Size.

a. All designated vessels assigned to a Mooring Site shall be a minimum of twenty (20) feet in length without bow sprit, bumpkin, pulpit, swimstep or other such appurtenance.

b. No Dinghy assigned to the Mooring Site shall exceed thirteen (13) feet without express permission of the Waterfront Director.

D. TERMINATION OF MOORING PERMIT.

1. Either party may terminate the Mooring Permit for any reason by giving thirty (30) days prior written notice to the other party.

2. The Mooring Permit may be terminated by the Waterfront Director without prior notice to the Permittee upon the occurrence of one or more of the events described below:

a. failure to pay when due Mooring Permit fees. No termination shall occur for this reason unless the fee is thirty (30) days past due;

b. failure to meet the Minimum Ground Tackle Specifications upon installation or annual inspection, or failure to complete required corrections;

c. failure to submit to the Waterfront Director a timely Mooring Inspection Report;

d. failure to maintain a vessel assigned to a Mooring Site in an Operable condition;

e. failure to maintain the Mooring in a manner that is not detrimental to the use, operation or development of the waters of the City of Santa Barbara or does not pose a hazard to navigation;

f. failure or refusal of the Mooring Permittee to allow an inspection of the vessel, Mooring, or both to determine if the vessel is Operable or the Mooring meets the Minimum Ground Tackle Specifications;

g. rental, lease, sublease, or loan of a Mooring Site;

h. failure or refusal to relocate a Mooring, vessel, or both back to an appropriate Mooring Site within three (3) days of notification by the Waterfront Director that the vessel, Mooring, or both have migrated off station;

i. use of the Mooring Site for commercial purposes, unless approved by the Waterfront Director;

j. violation of any condition of the Mooring Permit, any provision of Title 17 of the Santa Barbara Municipal Code or any resolution adopted by the City Council.

3. Removal of Mooring and vessel from Mooring Site.

a. Termination under section D 1. Upon termination of a Mooring Permit due to a termination under Section D 1 or expiration of the permit, it shall be the duty of the Permittee to remove all Ground Tackle and the moored vessel within ten (10) days from the date the Mooring Permit terminates or expires. If the Mooring is not removed within this time, 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 ten (10) days from the date the Mooring Permit terminates or expires shall be impounded by the City and subject to storage fees, disposal or lien sale proceedings as provided by law.

b. Termination under section D 2. The Waterfront Director shall notify the Mooring Permittee of the Mooring Permit termination by any reasonable means available and the Permittee shall remove the vessel and the Mooring from the Mooring Site within three (3) days of the Waterfront Director's notification. If the Mooring and/or vessel are not removed within this time, 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 three (3) days from the date the Mooring Permit terminates shall be impounded by the City and subject to storage fees, disposal or lien sale proceedings as provided by law.

E. MOORING POSITION

1. Vessel Securely Moored. 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.

2. Migration of Vessel or Mooring. Any vessel or Mooring that migrates off station shall be relocated to the Mooring Site within three (3) days of the date that the Mooring Permittee is notified by the Waterfront Director that the vessel or Mooring has migrated. The relocation of the Mooring shall be undertaken only by a City Approved Mooring Inspector. Costs of relocating a Mooring, vessel, or both, that has migrated off station from a Mooring Site shall be borne in full by the Mooring Permittee.

Section 2. City Approved Mooring Inspectors. City Approved Mooring Inspector. The Waterfront Department shall maintain a list of inspectors who are approved to install, inspect and repair Moorings in the Santa Barbara Mooring Area. Mooring Permittees may select only those inspectors on the list of City Approved Mooring Inspectors to perform Mooring installations, inspections and repairs.

Section 3. Minimum Ground Tackle Specifications.

1. Ground Tackle Specifications. All Moorings permitted and installed in the Santa Barbara Mooring Area shall comply with Minimum Ground Tackle Specifications attached hereto in Attachment A and incorporated herein by this reference.

2. Mooring Installation. An inspector selected from the City Approved Mooring Inspector list shall be the only entity approved to install Moorings in the Santa Barbara Mooring Area. The installation shall be at the Mooring Permittee's sole cost and expense. The Mooring Inspector shall submit written specifications of the Mooring installation on a City-supplied Mooring Inspection Report within ten (10) days of the installation.

3. Mooring Inspection. An inspector selected from the City Approved Mooring Inspector list shall be the only entity approved to inspect Moorings in the Santa Barbara Mooring Area. Moorings shall be inspected upon installation at the Mooring Site and, except as provided below, annually thereafter in August or September to confirm continued compliance with City-approved Minimum Ground Tackle Specifications. Any mooring initially deployed in May, June or July may delay its next annual inspection after deployment until August or September of the following year.

All inspections shall be at the Mooring Permittee's sole cost and expense. The Mooring Inspector shall submit written results of the inspection on a Mooring Inspection Report within ten (10) days of completion of the inspection.

4. Mooring Repairs. Any and all repairs recommended in the Mooring Inspection Report shall be completed by the City Approved Mooring Inspector at the Mooring Permittee's sole cost and expense and verified by the Mooring Inspector by the time the Mooring Inspection Report is submitted to the Waterfront Director. The Mooring Permit shall terminate if repairs recommended in the Mooring Inspection Report are not completed and the Mooring Inspection Report is not submitted within ten (10) days of the inspection and subsequently approved by the Waterfront Director.

5. Additional Inspection at Request of Waterfront Director. The Waterfront Director may require additional inspections of a Mooring anytime she or he deems such inspection necessary to assess the Mooring's compliance with the Minimum Ground Tackle Specifications. If following an inspection by a City Approved Mooring Inspector

the Mooring is deemed compliant with Minimum Ground Tackle Specifications described in Attachment A, costs for said inspection shall be paid by the City. If the Mooring is deemed non-compliant, all costs for raising, inspecting, repairing and re-installing the Mooring as described and required herein shall be paid by the Mooring Permittee. All repairs necessitated by the inspection, as described in a Mooring Inspection Report, shall be undertaken within the time set forth herein. The Mooring Permit shall terminate if repairs recommended in the Mooring Inspection Report are not completed within the time set forth herein.

6. Mooring Inspections; Method. All Mooring inspections shall be conducted by raising the Mooring and inspecting its entirety out of the water unless another method is approved by the Waterfront Director.

7. Minimum Ground Tackle Specifications. The Minimum Ground Tackle Specifications described in Attachment A may be amended from time to time by the Waterfront Director.

RESOLUTION NO. 09-075

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA) ss.
)
CITY OF SANTA BARBARA)

I HEREBY CERTIFY that the foregoing resolution was adopted by the Council of the City of Santa Barbara at a meeting held on September 15, 2009, by the following roll call vote:

AYES: Councilmembers Dale Francisco, Roger L. Horton, Grant House, Helene Schneider, Das Williams; Mayor Marty Blum

NOES: None

ABSENT: Councilmember Iya G. Falcone

ABSTENTIONS: None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on September 16, 2009.

Cynthia M. Rodriguez, CMC
City Clerk Services Manager

I HEREBY APPROVE the foregoing resolution on September 16, 2009.

Marty Blum
Mayor