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CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: February 18, 2010
To: Harbor Commission
From: John N. Bridley, Waterfront Director
Subject: **Business Services Report - General Update**

Business Activity Permits

The Santa Barbara Municipal Code (SBMC 17.28.040) requires that anyone engaging in a commercial activity or service in the Harbor must obtain a permit from the Waterfront Department (Attachment 1). The permits are referred to as Business Activity Permits. As stated in the Business Activity Permit Policy, the purpose of the permits is to:

1. Promote business throughout the Harbor area in a safe, orderly and professional manner;
2. Encourage the offering of essential marine related services through the use of Business Activity Permits; and
3. Increase the opportunities for small businesses that have no fixed place of business or lease in the Harbor by use of the Business Activity Permit.

The Department currently has a total of 71 Business Activity Permits (BAP) in effect. Of these, 59 are issued to businesses that provide services in the marinas (Attachment 2).

The BAP policy also authorizes the Department to issue up to twelve permits to six-passenger charter operators and up to three permits for kayak excursion operators. The charter permit allows the operator to load passengers from their designated slip in the Harbor. Currently, all twelve Business Activity Permits are held by charter operators (Attachment 3). There are 22 individuals on the Charter Permit wait list. In 2009, two charter permits were offered to individuals that had been on the waiting list since March 2006. The most recent charter permit was issued to Santa Barbara Sailing Adventures in December 2009.

BAP charter operators are required to submit activity logs and report their gross sales when renewing the permits each year. The purpose of this requirement is to track the level of BAP charter activity and identify any possible detrimental effects on lease operations.

Gross sales attributable to Charter BAP activity over the last five years is shown on Table 1 on the following page:

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Table 1

	2004	2005	2006	2007	2008
Total BAP gross	\$ 213,924.00	\$ 305,397.95	\$ 246,734.10	\$ 326,727.26	\$ 284,886.00
Average per BAP	\$ 21,392.40	\$ 25,449.83	\$ 20,561.18	\$ 27,227.27	\$ 28,488.60

In comparison, gross sales from charter lease activity is shown on Table 2 below:

Table 2

	2004	2005	2006	2007	2008
Lessee Gross	\$4,893,231	\$4,513,112	\$5,208,008	\$5,606,130	\$5,267,832
BAP % of sales	4.37%	6.77%	4.74%	5.83%	5.41%

Table 2 indicates that the twelve BAP charter operators account for approximately 4.4% to 6.8% of charter activity in the Harbor each year.

Automatic Payment Service For Slip Fees

The City's Automatic Payment Service has been available to slip permittees since January 2002, and is an excellent option for people who travel frequently or don't want to risk accidentally missing a monthly slip fee payment.

Approximately 390 slip permittees (36% of slip accounts) currently participate in the program. Program participants receive monthly statements as usual, near the first of the month. On the fifteenth of the month, their checking account is debited for charges shown on the statement. There is no charge from the City's Billing Office to participate. However, some banks may charge a fee for electronic fund transfers. Interested parties are encouraged to check with their bank regarding any possible fees.

Application forms for Automatic Payment Service will be sent out with the April 2010 billing statements and are also available at the Harbor Patrol Office. To enroll in the program, the following four items are needed:

1. A check for the current month's slip fees
2. A completed application form
3. A voided check
4. A slip fee payment stub

The Automatic Payment Service offers most slip permittees a convenient way to pay monthly slip fees. The City's Billing Office has also offered the automatic payment option for water billing since 1999.

- Attachment 1: SBMC 17.28.040: Business Activity and Advertising in Harbor
 2: BAP Service Permits
 3: BAP Charter Permits

Prepared by: Scott Riedman, Waterfront Business Manager

BUSINESS ACTIVITY PERMIT POLICY

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The Harbor Commission is empowered pursuant to Santa Barbara City Municipal Code 17.28.040 to establish regulations applicable to decisions made by the Waterfront Director in granting certain Business Activity Permits within the Santa Barbara Harbor. Section 17.28.040 MC reads as follows:

Activities permitted shall be subject to such further regulation in the public interest, as determined by the Harbor Commission at a regularly noticed meeting.

Based upon this authority and with respect to Business Activity Permits, it is therefore the policy of the Harbor Commission to:

1. Promote business throughout the Harbor area in a safe, orderly and professional manner; and
2. Encourage the offering of essential marine related services through the use of Business Activity Permits; and
3. Increase the opportunities for small businesses that have no fixed place of business or lease in the Harbor by use of the Business Activity Permit.

In addition to those rules, regulations and laws that currently govern Business Activity Permits, the following regulations shall apply:

I. CHARTER OPERATIONS

1. Business Activity Permits shall be issued for six-passenger charter operations in the Harbor in limited numbers.
2. A total of twelve such Business Activity Permits shall be allowed at any one time, however, such total is subject to change by the Harbor Commission.
3. Six-passenger charters will pay an annual \$250.00 permit fee, at the time of application and renewal.
4. Permits shall be issued to individuals for a specific location (slip) within a marina.
5. The applicant for a Charter Business Activity Permit must possess and show proof of a current United States Coast Guard license to carry passengers.
6. The applicant for a Business Activity Permit for a six-passenger charter operation must be either the owner/operator or operator of a specific vessel in a specific slip in the Harbor. It is not the intent of this policy to prohibit a Coast Guard qualified substitute operator in the event of a family or medical emergency. The Waterfront Director shall be notified of the emergency and substitution before the substitution occurs. The substitution shall not exceed three (3) days.
7. Business Activity Permits will not be issued for multiple vessels of one operator, however, if a Business Activity Permit holder for charter operations obtains a replacement vessel, and that vessel becomes the registered vessel at the specific location (slip) for which a Business Activity Permit has been issued, the new vessel may be substituted for the vessel originally identified in the Business Activity Permit.
8. Prior to the issuance of a Business Activity Permit for charter operations, that area of a marina possibly affected by the proposed charter activity shall be posted for a period of 30 days indicating the activity and location proposed, so as to allow for input from slip holders of the proposed activity. The written input shall be sent to the Waterfront Department. Prior to the issuance of the Business Activity Permit adjustments or compromise by the applicant may be required to satisfy any concerns that have been raised.
9. Charter Boat Activity Logs shall be kept by each charter operation and submitted to the Waterfront Department at the end of each permit year. The information required will be the date of each charter, type of use, number of passengers and gross income. The permittee will present, at the time of permit renewal, the most recent IRS form Schedule C submitted to the Internal Revenue Service by the operator for his business. The data will be analyzed to determine the types of levels of service being provided by charter boat operations, impacts on lease operations and possible appropriate percentage rents or fees. Failure to provide the Boat Activity Logs in a timely manner shall be grounds for suspension, revocation or nonrenewal of a Business Activity Permit.
10. Signs: In addition to all requirements set forth in Municipal Code Chapter 22.70, Sign Regulations, the following criteria shall apply to the interim sign program for vessels for hire:
 - a. A total of ten cumulative square feet per sign, per business is allowed.
 - b. The sign shall be mounted only on the vessel for hire and shall be rigid or within a bordered area on a ship's sail.
 - c. The sign shall avoid a carnival atmosphere in appearance.
 - d. Since vessels have no identified street numbers or addresses, exceptions to the two-inch size for telephone numbers may be considered.

II. KAYAK EXCURSION OPERATORS

1. Business Activity Permits shall be issued for kayak excursion operators in the Harbor in limited numbers.
2. A total of three such Business Activity Permits shall be allowed at any one time, however, such total is subject to change by the Harbor Commission.
3. Kayak excursion operators will pay an annual \$250.00 permit fee, at the time of application and renewal.

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BUSINESS ACTIVITY PERMIT POLICY

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4. Permits shall be issued to individuals for guided kayak excursion operations only. Business Activity Permits will not be issued for rentals of kayaks or other water sports equipment.
5. The applicant for a kayak excursion Business Activity Permit must possess and show proof of a current first aid/ CPR certificate.
6. Activity Logs shall be kept by each kayak excursion operator and submitted to the Waterfront Department at the end of each permit year. The information required will be the date of each excursion, type of use, number of passengers and gross income. The permittee will present, at the time of permit renewal, the most recent IRS form Schedule C submitted to the Internal Revenue Service by the operator for his business. The data will be analyzed to determine the types of levels of service being provided by kayak excursion operators, impacts on lease operations and possible appropriate percentage rents or fees. Failure to provide the Activity Logs in a timely manner shall be grounds for suspension, revocation or nonrenewal of a Business Activity Permit.

III. SERVICES

1. Business Activity Permits shall be issued for marine maintenance services in unlimited numbers.
2. Service Business Activity Permit holders and their employees will be issued individual identification cards to wear in plain view while providing services in the Harbor. The individual identification cards will allow enforcement of Business Activity Permit regulations.
3. Service Business Activity Permit holders will pay an annual \$20.00 fee for the permit. This includes the cost of individual identification card(s) which are required for all employees. A \$5.00 fee will be charged to replace any card that is lost, stolen or destroyed.
4. Service Business Activity Permit holders are required to use only EPA-approved, biodegradable soaps, and disinfectants in areas where wash-water discharges directly into the receiving water. Failure to do so may result in termination of the Business Activity Permit.
5. In addition to other requirements of a Business Activity Permit, beginning January 1, 2006, Underwater Hull Cleaning businesses shall possess, maintain and show proof of, to the satisfaction of the Waterfront Director or his/her designee, a certificate of completion of a class or training curriculum in Best Management Practices (BMPs) for Underwater Hull Cleaning. Underwater Hull Cleaning business is defined as a business that includes among its services the cleaning of vessel hulls while the vessel is in the water. A certificate or proof of Underwater Hull Cleaning BMP training completed within the previous five years must be presented with an application for a Business Activity Permit or a renewal of a Business Activity Permit. The Permit holder is solely responsible for the cost of acquiring training in Divers Hull Cleaning BMPs. More than one conviction per calendar year for violating MC 17.16.010 (Discharge of Contaminants into Harbor Waters Unlawful) while in possession of a Business Activity Permit for Underwater Hull Cleaning may result in termination of the Business Activity Permit.

IV. GENERAL

1. The Harbor Commission understands that the public may propose from time to time new marine-related activities that were not anticipated at the time this policy was adopted. The Commission also understands that public input regarding proposed charter operations may cause an adverse decision by the Waterfront Director in the issuance of a Business Activity Permit for Charter Operations. Having considered the above:
 - a. It shall be within the discretion of the Waterfront Director to grant or withhold the issuance of a Business Activity Permit for any reason (or if deemed in the best interest of the Harbor).
 - b. Any applicant, or member of the public, retains the right under this policy to appeal the decision of the Waterfront Director to the Harbor Commission at the next regularly scheduled meeting pursuant to Municipal Code Section 17.28.070.
2. An applicant for a Business Activity Permit shall maintain liability insurance at their sole cost during the term of the permit. Insurance coverage for Charter Business Activity Permit applicants and Kayak Excursion Operators shall be in the amount of \$1,000,000. Service Business Activity Permit applicants are required to have coverage in the amount of \$300,000.00 to 500,000, depending on the type of business activity. Coverage shall include protection and indemnity against bodily injury and property damage. The City, its officers, employees, and agents shall be named as additional insured. Evidence of said insurance shall be provided in advance of the issuance of a Business Activity Permit.
3. Failure to comply with the policies and regulations of the Waterfront may result in termination of a Business Activity Permit by the Waterfront Director.
4. In the event that a Business Activity Permit is terminated, the holder retains the right under this policy to appeal the decision of the Waterfront Director to the Harbor Commission at the next regularly scheduled meeting pursuant to Municipal Code Section 17.28.070.
5. A charge in the amount of \$25.00 shall be added to the cost of a Business Activity Permit that is not renewed within thirty (30) days of its due date.

ATTACHMENT #2