

STAFF REPORT*CITY OF OCEANSIDE*

DATE: January 20, 2010

TO: Honorable President and Harbor Board of Directors
Honorable Mayor and City Councilmembers

FROM: Department of Harbor and Beaches

SUBJECT: **ADOPTION OF AN ORDINANCE AMENDING CHAPTER 29A.8 OF THE OCEANSIDE CITY CODE RELATED TO BERTHING VESSELS AND THE ADDITION OF 29A.19 RELATING TO THE IMPOUNDMENT OF ITEMS STORED OR PLACED IN VIOLATION OF CHAPTER 29A**

SYNOPSIS

Staff recommends that the City Council and the Harbor Board of Directors adopt an ordinance amending Chapter 29A of the Oceanside City Code and add Section 29A.19, granting the Oceanside Police Department and the Oceanside Small Craft Harbor District impound authority over prohibited items left on harbor docks and boats that are illegally moored.

BACKGROUND

Oceanside City Code 29A.7(a) makes it unlawful to store or place items such as supplies, materials, dinghies, gear or other items on the docks; however, there is no section that gives the Police Department or Harbor District the authority to impound these items and recover the costs associated with the impound.

Oceanside City Code 29A.8 makes it unlawful to berth, moor or anchor a vessel in the harbor unless it has an appropriate permit; however, an exception in the section creates a loophole that is too broad. The section does not give authority to impound vessels that are in violation.

ANALYSIS

The City Attorney's office has drafted an ordinance, Attachment A, which will allow the Oceanside Police Department and the Harbor District to impound illegally moored vessels and the authority to impound prohibited items.

The impound fees were set by Resolution No. 03-R418-2.

FISCAL IMPACT

No fiscal impact.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council and the Harbor Board of Directors adopt an ordinance amending Chapter 29A of the Oceanside City Code and add Section 29A.19, granting the Oceanside Police Department and the Oceanside Small Craft Harbor District impound authority over prohibited items left on harbor docks and boats that are illegally moored.

PREPARED BY:

SUBMITTED BY:



Frank Quan
Harbor and Beaches Coordinator



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

Don L. Hadley, Deputy City Manager

Lee Steitz, Police Lieutenant





1 Sec. 29A.8. Berthing permit; fee; prohibition.

- 2 (a) It shall be unlawful to berth, moor or anchor any vessel in any part of the harbor except
3 such vessels which fit entirely within the slip with a vessel lawfully berthed, such as a dinghy or
4 other similar vessel, without first having obtained the appropriate permit from the
5 administrative officer to do so and having paid all fees as required by the harbor district.
6 (b) Terms, conditions and rates for said permit shall be set by resolution of the harbor board.
7 (c) Houseboats are prohibited from occupying a berth in the harbor.

8 SECTION 2. Section 29A.19 of the Oceanside City Code is hereby added as follows:

9 Sec. 29A.19 Authority to Impound.

- 10 (a) Any item whatsoever, including but not limited to supplies, materials, gear, vessels
11 and/or vehicles, that are stored, berthed, moored, anchored, placed or otherwise situated in
12 violation of any of the provisions of this chapter, including but not limited to sections 29A.6,
13 29A.7, 29A.8 and 29A.13, this Code, or any other City Code or ordinance, or any applicable
14 Federal or State law, may be removed and/or impounded at the direction of the administrative
15 officer or the chief of police or their designees. Such items may be disposed of in accordance
16 with the provisions of Article 1, Chapter 4, Title 4.5 of the Civil Code, except where another
17 provision of law applies or as set forth herein. The administrative officer is authorized to enter
18 into contracts with private parties to remove, impound and/or dispose of any item consistent
19 with the provisions of this section.
20 (b) In the case of vessels removed pursuant to this section, an attendant on board the vessel
21 may be given the opportunity to forthwith remove any such vessel before it is impounded.
22 Transient mooring rents, if any, shall continue to accrue while the vessel is impounded, and
23 shall be paid by the owner of the vessel in addition to any other fees charged hereunder prior to
24 release of the vessel by the administrative officer or the chief of police. The provisions the
25 Boaters Lien Law, as set forth in Division 3, Chapter 2, Article 4 of the Harbors and Navigation
26 Code shall apply to the disposition of vessels registered with the Department of Motor Vehicles.
27
28

1 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish
2 this ordinance once within fifteen (15) days after its passage in the North County Times, a
3 newspaper of general circulation published in the City of Oceanside.

4 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day
5 from and after its final passage.

6 SECTION 5. Severability.

7 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
8 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
9 shall not affect the validity of the remaining portions of this Ordinance. The City Council
10 hereby declares that it would have passed this ordinance and adopted this Ordinance and each
11 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,
12 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

13 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
14 California, held on the ___ day of _____, 2010, and, thereafter,

15 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
16 Oceanside California, held on the ___ day of _____, 2010, by the following vote:

17 AYES:

18 NAYS:

19 ABSENT:

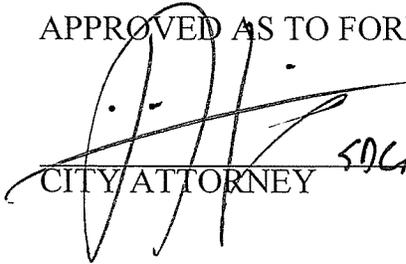
20 ABSTAIN:

21 _____
22 MAYOR OF THE CITY OF OCEANSIDE

23 ATTEST:

24 APPROVED AS TO FORM:

25 _____
26 CITY CLERK

27 
28 _____
29 CITY ATTORNEY *SDCA*

AN ORDINANCE OF THE CITY OF OCEANSIDE AMENDING CHAPTER 29A OF THE OCEANSIDE
CITY CODE BY AMENDING SECTION 29A.8 RELATING TO BERTHING VESSELS AND BY THE
ADDITION OF 29A.19 RELATING TO THE IMPOUNDMENT OF ITEMS STORED OR PLACED IN
VIOLATION OF CHAPTER 29A

1 RESOLUTION NO. 03-R418-2

2 A RESOLUTION OF THE OCEANSIDE HARBOR
3 DISTRICT BOARD OF DIRECTORS REPEALING
4 RESOLUTION NO. 91H-03 AND ANY AMENDMENTS
5 THERETO AND ESTABLISHING A NEW MASTER FEE
6 RESOLUTION

7 WHEREAS, the Oceanside Harbor District Board of Directors has reviewed fees
8 assessed for various activities and services provided in the District; and

9 WHEREAS, the Board desires to adjust certain assessed fees as established in Harbor
10 Resolution No. 91H-03 ("Master Fee Resolution") in order to maintain a balance with a market
11 competitive fee-based marina operation with a financially sound operational organization.

12 NOW, THEREFORE, the Oceanside Harbor District Board of Directors does resolve as
13 follows:

14 Section 1. That Harbor Resolution No. 91H-03 and any amendments thereto are
15 hereby repealed and the following schedule of fees imposed by the Oceanside Harbor District
16 shall constitute the District's Master Fee Resolution.

17 A. GENERAL PROVISIONS.

- 18 1. Rental Fees for Berthing. Berthing fees (due and payable on the first day
19 of each month) shall be at the rate per linear foot of the vessel's hull length
20 or the slip length, whichever is greater, at the following rate:
- 21 a. Vessels 29' and less, \$8.50 per foot per month;
 - 22 Vessels 29'1" and greater, \$9.60 per foot per month.
 - 23 b. Commercial fishing vessels shall be assessed a fee at the rate of
24 \$7.30 per month provided that they are berthed at docks V
25 through X, inclusive.
 - 26 2. Slip permittees have the privilege of transferring their slip permit to the
27 new owner when they sell their vessel, upon approval by the Harbor
28 District. A fee of \$16.50 per lineal foot of the boat or slip, whichever is
greater, shall be charged to the buyer prior to any slip permit transfer

1 except as otherwise provided in Resolution 86-03 or any amendments
2 thereto. A transfer fee of \$85.00 per lineal foot of the boat or slip,
3 whichever is larger, shall be charged to the lien hold of a repossessed
4 vessel prior to any slip permit transfer. A slip renter who sells his or her
5 boat and wishes to retain his or her slip may do so if he or she purchases
6 another boat within ninety days.

7 B. FEE SCHEDULE.

- 8 1. Commercial Fishing Slips. To be placed on the waiting list for a
9 commercial fishing slip in Oceanside Harbor, a \$75.00, non-refundable,
10 annual administrative fee must be paid to the Harbor District.
- 11 2. Pleasure Vessel Slips. To be placed on the waiting list for a permanent
12 slip in Oceanside Harbor, a \$75.00 non-refundable, annual administrative
13 fee must be paid to the Harbor District. If the applicant wishes to be
14 placed on more than one list, he or she must pay a fee for each list he or
15 she wishes to be on.
- 16 3. Liveaboard Permit.
- 17 a. To be placed on this list, applicant must be a current, permanent
18 slip renter. Additionally, permittee's boat must meet criteria for a
19 liveaboard permit as defined in Harbor Resolution No. 86-13;
20 permittee must move to designated area as assigned by the Harbor
21 District, and remit an \$85.00 non-fundable waiting list fee.
- 22 b. In addition to the regular slip rental fees paid, an individual living
23 aboard a vessel shall pay an additional \$2.20 per foot, per month
24 for the vessel length or slip occupied, whichever is greater.
- 25 4. Transient Vessel Rates.
- 26 a. Any transient vessel which requires a double space, such as multi-
27 hull craft, shall be required to pay the existing transient rate for
28 two slips.

- 1 b. The transient vessel daily rate shall be \$.75 per linear foot.
- 2 c. The following areas are hereby designated as transient mooring
- 3 facilities;
- 4 I) Jolly Roger (JR) Dock
- 5 II) Harbor Village (HV) Dock
- 6 III) Transient (TR) Dock
- 7 IV) Dolphin Dock/Coast Guard Dock
- 8 d. District reserves the right to use mooring areas other than those
- 9 set forth above for transient vessels if such other mooring areas
- 10 are not occupied and, if needed, to accommodate visiting vessels.
- 11 However, the owners of transient vessels shall agree to move their
- 12 vessel to another slip or to the transient dock any time a
- 13 permanent renter requests the slip.

14 5. Hotel Passes.

15 A flat rate of \$22.00 shall be charged for each hotel pass period regardless

16 of boat or slip size.

17 6. Key Deposits. There will be a \$30.00 deposit for each dock or restroom

18 key issued. This deposit will be refunded upon return of said key and key

19 deposit receipt. If receipt *and* key are not returned, deposit will be

20 forfeited.

21 7. Dinghy Rack and Storage Locker Fees

22 a. Dinghy racks for Slip Permittees, \$4.00 month

23 b. Dinghy racks for Non-Slip Permittees: \$66.00 per six-month period;

24 c. Storage lockers: \$16.50 per month (rented to slip permittees only).

25 8. Delinquent Fees. Rental fees (including fees for slips, liveaboard permits,

26 lockers and dingy racks) are due on the first day of each month. If rental

27 fees are not paid on or before the fifteenth (15th) of each month, a late

28 charge equal to ten percent (10%) of the amount due shall be added to the

1 outstanding balance; payable by permittee to compensate the District for
2 additional administrative, regulatory, clerical and investigative costs
3 incurred by the District for the delinquency.

4 9. Subleasing. When prior approval of the Harbor District is obtained, slip
5 permittees may sublease their slips for limited periods when their boats are
6 temporarily away from their slips. Slip permittees will pay \$42.00 for
7 each three-month period or fraction thereof. A slip may be subleased for
8 a maximum of twelve (12) months. If a slip permittee does not receive
9 approval from the Harbor District prior to allowing another to occupy his
10 or her slip, the sublease fee charged to the slip permittee will be doubled.

11 10. Harbor Police and Maintenance Division Fees

- 12 a. Non-Emergency Services: For the purposes of this section, the
13 term "non-emergency" shall refer to any situation which is not
14 life-threatening. Fees for non-emergency services, performed by
15 either the Maintenance Division or Harbor Police personnel will
16 be charged on an hourly basis at the actual labor cost. The
17 minimum charge will be one hour of labor and materials cost.
- 18 b. The charge for Maintenance Division labor is \$32.00 per person,
19 per hour. The charge for Harbor Police labor is \$50.00 per
20 person, per hour. These charges will be adjusted annually based
21 on increases in labor contracts as they occur.
- 22 c. The charges for equipment are as follows:
- 23 I) Harbor District Boats: no less than one half (1/2) hour at
24 \$100.00 per hour;
- 25 II) Harbor District Vehicles: no less than one-half (1/2) hour at
26 \$33.00 per hour;
- 27 III) Miscellaneous Equipment (pumps, power tools, etc.): no less
28 than one hour at \$10.00 per hour.

1 11. Reports/Documents. Ten cents (\$.10) per page will be charged for copies
2 of requested documents.

3 12. Boat Inspections. A fee of \$10.00 will be charged for each vessel
4 inspection performed.

5 13. Harbor Police Impounds. The following fees will be charged for each
6 impounded item:

7 a. Boats: one hour labor, plus transient vessel fees;

8 b. Dinghies and sabots: one hour labor, plus \$2.00 per day up to a
9 maximum of three months.

10 c. Bicycles: one hour labor;

11 d. Miscellaneous items: one hour labor

12 14. Miscellaneous Fees

13 a. A fee of \$15.00 will be charged for any account which has a
14 check returned by the bank.

15 b. Any permittee desiring to change slips after their first slip change,
16 which is free, shall be charged a fee of \$42.00.

17 c. Any transient boater desiring to use a Harbor District-owned
18 electrical plug adapter, shall pay a \$100.00 deposit. This deposit
19 will be refunded upon return of the adapter in good working
20 condition.

21 15. Date and Formula for Implementation

22 The Master Fee Schedule shall be effective January 1, 2004. Slip rents,
23 transient slip rents and liveaboard slip fees will be adjusted, based upon
24 the San Diego Area Consumer Price Index, every other year thereafter,
25 beginning January, 2006.

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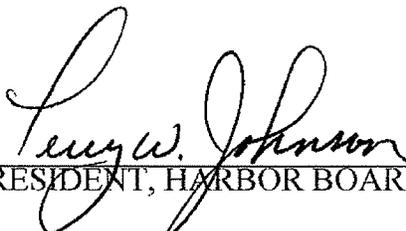
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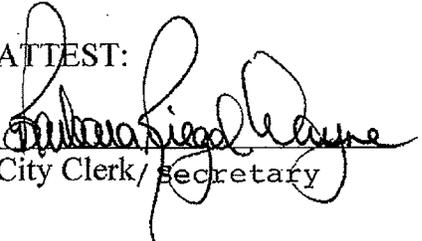
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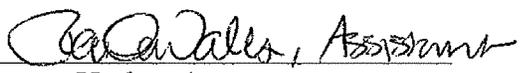
The adjustment shall be for the period subsequent to the previous adjustment. Slip rents shall not be decreased. Any fee adjustment shall be rounded to the nearest tenth of a dollar.

PASSED AND ADOPTED by the City shall be paid Council of the City of Oceanside, California, this 18th day of June, 2003, by the following vote:

AYES: JOHNSON, CHAVEZ, FELLER, WOOD
NAYS: SANCHEZ
ABSENT: NONE
ABSTAIN: NONE


PRESIDENT, HARBOR BOARD OF DIRECTORS

ATTEST:

City Clerk/Secretary

APPROVED AS TO FORM:

Harbor Attorney

A RESOLUTION OF THE OCEANSIDE HARBOR DISTRICT BOARD OF DIRECTORS REPEALING RESOLUTION NO. 91H-03 AND ANY AMENDMENTS THERETO AND ESTABLISHING A NEW MASTER FEE RESOLUTION