



To: Policy – Operations Committee
Chair Smith
Commissioner Goddard

From: Marian Olin, Port Director

Date: July 17, 2018

Subject: Sublet Fee Review

BACKGROUND

Subletting of slips is allowed in Santa Cruz Harbor. Staff located archived agenda records dating back to September 1968, which reference “sub let rentals,” and defined a structure very similar to what exists today:

- a time limit maximum of 6 months
- an associated fee (the Commission discussed raising the fee from 10% to 20% of slip rent)

Current sublet rules require sublets be arranged by slip licensees with Harbormaster approval. Sublets are limited to a maximum of six months in any twelve-month period, though extensions may be granted. The financial obligation for the slip remains with the regular slip licensee, and a sublet fee is assessed. Sublets are governed by Port District Ordinance sections 302(c) “Use of Slips by Non-licensees” and 303 “Interim Use Permit Regulations” (Attachment A).

Fees have remained fairly static over time. In 1975, the sublet fee was increased to 25% of slip rent. The Commission considered administering all subleases and raising the surcharge to 50% of slip rent in 1977, though that proposal was rejected in 1978. A flat fee versus a percentage fee was in effect in the early-1980’s, and in 1995, a differential rate between the north harbor (15%) and south harbor (25%) sublet fee was adopted effective with the FY96 budget. After 8 years, the differential rate for the north harbor was eliminated with the FY04 budget, and the fee was again set at 25%. The sublet fee is currently 30% of slip rent. The 30% fee was approved in February 2005, as part of approval of the FY06 budget.

A review of sublet fees first appeared on the Commission’s list of follow-up items in November 2009, at the request of an audience member. In November 2015, Chair Smith also requested this item be reviewed.

ANALYSIS

Staff surveyed fourteen harbors on their subletting fee policy and discovered that only three of the fourteen allow subletting of slips. Of the three allowing sublets, one charges 25% of slip rent; another is considering charging an additional fee; and, the third has strict limitations (see Attachment B).

Sublet fees generate only modest revenue for the District. The FY19 budget anticipates receiving \$20,400 from sublet fees. In FY18, the District realized approximately \$28,466 from sublet fees. As compared to a slip rent increase, sublet fees generated <1% of the fees generated by a 1% slip rent increase.

As noted above, fees generated by sublets are modest and intended to cover staff's administration of the program. More importantly, the program helps to ensure the integrity of the paid waiting list for slips, while providing flexibility for slip licensees to be out of their slips for up to six months out of every twelve. The program also provides boating opportunities for those who may not have a slip.

Staff does not recommend any changes to the sublet program, which is working as intended. Should the committee recommend lowering fees, the financial impact is presumed to be minimal. However, if sublet activity increases as a result of lower fees, it will require more staff administration with little or no additional revenue to offset that effort. That is dependent upon demand for sublet slips, which tends to be higher for south harbor berths year-round, and lower in the north harbor when fishing activity is slow.

An analysis of sublet fees versus the cost of recreational visitor berthing is appended as Attachment C. For longer-term stays, sublet fees are appropriately priced less than visitor berthing.

- ATTACHMENTS
- A. Port District Ordinance Sections 302(c) and 303
 - B. Marina Survey on Sublet Fees
 - C. Sublet Fee / Visitor Berthing Fee Analysis

SECTION 302 - Regular License Berthing Regulations

(c) Use of Slips by Non-licensees

No licensee may sub-lease, sub-rent, or sub-license his slip to another person except through the Harbormaster's office and according to standard procedure set forth. The use of a slip by any boat other than the licensee must be approved by the Harbormaster.

Use of a licensee's vessel by any person other than the licensee, in the form of a charter, rental agreement, lease or any other arrangement, whereby some person other than the slip licensee is afforded the use of the licensee's slip, shall constitute a sub-lease of the slip and shall be subject to the provisions of this section. The details of such an agreement shall be notarized and filed at the Port District office.

Rented, chartered, or leased vessels may not be used as a liveaboard dwelling, except by special permit from the General Manager.

SECTION 302.1 - Regular Use of Vessel

(a) The owner/licensee under any slip license agreement or addendum or modification thereto shall make continuous personal use of the vessel (vessel means the vessel as defined in the slip license agreement) on a regular basis. For purposes of these ordinances, "continuous personal use of the vessel on a regular basis" is defined to mean that the owner/licensee must personally and physically be present on the boat each time during the taking of the boat out of the slip and harbor for any length of time on at least ten separate days during any twelve month period. The owner/licensee must be able to establish such personal usage for each and every twelve month period selected by the Harbormaster.

(b) Where it is provided in any slip license agreement or in any addendum or modification thereto, that the owner/licensee shall do, or not do, any act or thing, then the individuals identified as the owner/licensee shall personally do, or not do, that act or thing. For example, in paragraph 4(h) of the slip license agreement where it is provided, among other things, that "owner shall make continuous use of the vessel on a regular basis...", the personal and physical presence of the individual or individuals identified as the owner/licensee is required on the vessel during such use in order to satisfy the requirement of "continuous use on a regular basis" as defined in paragraph 4(h) of the slip license agreement.

SECTION 303 - Interim Use Permit Regulations

(a) Interim use permits may be granted for a maximum of six months in any twelve-month period. No right to continuing occupancy of a slip in the harbor or to higher waiting list priority shall result from such use. The financial obligation for the slip shall remain with the regular licensee. Reimbursement by the sub-renter to the licensee will be the responsibility of the two contracting parties. The sub-rental rate, however, shall not exceed the standard fee schedule currently used by the Port District. Individuals found to be profiting from this system will be subject to immediate slip revocation.

(b) Interim use permits will be issued by the Harbormaster on the basis of a joint agreement executed at the harbor office between regular licensee and interim permittee.

(c) Use of a slip by a boat other than the one registered must be reported to the harbor office regardless of duration of use.

Sublease Policy Survey - July 5, 2018

Facility	Public/Private?	Sublease Permitted?	Time Limit?	Fee?	Additional Notes
Berkeley Marina	Public	Yes.	30 days	No.	Slip renter may request to "sublease" slip one-time per calendar year (requires Harbormaster approval). Not a frequent occurrence.
City of Eureka Marina	Public	No.	N/A	N/A	
Crescent City Harbor	Public	No.	N/A	N/A	if slip is unoccupied for an extended period of time, harbor staff can assign transient vessels to slip (and charge associated visitor berthing fees).
Humboldt Bay Harbor	Public	No.	N/A	N/A	if slip is unoccupied for an extended period of time, harbor staff can assign transient vessels to slip (and charge associated visitor berthing fees).
Monterey Harbor	Public	No.	N/A	N/A	
Morro Bay Harbor	Public	Yes.	3 months	Sublessee - Must pay 25% of regular berthing costs Sublessor - Regular berthing fees	Upon request from a slip renter, harbor staff can arrange the sublease of slip. Harbor staff maintains a "sublease waiting list."
Moss Landing Harbor	Public	No.	N/A	N/A	
Noyo Harbor District	Public	No.	N/A	N/A	
Pillar Point Harbor	Public	No.	N/A	N/A	
Port of Redwood City	Public	No.	N/A	N/A	
San Francisco Marina	Public	No.	N/A	N/A	
Santa Barbara Harbor	Public	No.	N/A	N/A	
South Beach Marina	Public	Yes.	6 months	No.	Currently looking into charging an additional fee for subleasing.
Ventura Port District	Public	No.	N/A	N/A	if slip is unoccupied for an extended period of time, harbor staff can assign transient vessels to slip (and charge associated visitor berthing fees).

**Santa Cruz Port District
Sublet Fee / Visitor Berthing Fee Analysis**

Assumption: 30' south harbor single side tie slip, non-commercial vessel

<u>SUBLET FEE</u>	Length		Per Foot	Days/Mo	Monthly Total
Recreational vessel	30	x	\$12.79	month	\$383.70
Sublet Fee @ 30%					<u>\$115.11</u>
					\$498.81

<u>VISITOR BERTHING 15+ DAYS</u>					
Recreational vessels (1st 2 wks)	30	x	\$1.25	14	\$525.00
" " (2nd 2 wks)	30	x	\$2.00	16	<u>\$960.00</u>
					\$1,485.00

<u>WINTER END-TIE MONTHLY RATE</u>					
Recreational vessel (1 month)	30	x	\$23.25	month	\$697.50

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PORT COMMISSIONERS:
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To: Policy – Operations Committee
Chair Smith
Commissioner Goddard

From: Marian Olin, Port Director

Date: July 17, 2018

Subject: Partnership Fee Review

BACKGROUND

The purpose of this item is to review the partnership fee, which is currently 10% of slip rent per partnership. To frame the review, some background information is provided below.

Partnerships were officially recognized in 1974, when the Commission adopted Berthing Assignment and Use Regulations. The regulations were adopted as Ordinance Section 302(b), and required existing partnerships to designate one of the joint owners in a boat as the agent. The agent was then eligible to be granted a continuing slip license.

In 1977, because of staff concerns about illegal transference of slip, the Commission reviewed a subset of the ordinance addressing partnerships and adopted a number of additional provisions to ensure partnerships were legitimate and require slip licensees to maintain interest in a boat that was equal to or greater than that of his/her partners. (Note: This revision also introduced the requirement that the slip licensee be required to prove he/she is actually using the boat, which later came to apply to all slip licensees regardless of partnership status.)

In September 1980, the Commission took action to require slip licensees maintain at least 50% ownership in a boat, no matter how many partners. Later that year the Commission reconsidered its position, and revised the partnership ordinance to allow a maximum of four partners per boat which is still in effect today. Slip licensees must maintain an interest greater than, or equal to, that of each of the other partners, but in no event less than 25% of the total interest in the partnership (maximum of four partners).

A partnership surcharge was implemented in the early 1980's, and was the source of some controversy. The surcharge was eliminated in exchange for higher fees for parking stickers for vessels held in partnership. In 1985, the Commission again considered whether to assess a partnership surcharge, but the motion failed. A "new" \$15 monthly partnership fee was introduced with the FY93 budget. Following committee review of the partnership fee in January 2005, the draft FY06 budget proposed a fee of 20% of slip rent; however, the Commission adopted the budget with a 10% fee. The partnership fee has remained at that level since FY06.

A request to review the partnership fee structure (i.e., per partner versus per partnership) first appeared on the Commission's list of follow-up items in March 2010, at the request of Chair Smith.

ANALYSIS

The FY19 budget anticipates receiving \$41,820 from partnership fees. In FY18, the District realized approximately \$41,441 from partnership fees. The fees are comparable to a 1% slip rent increase.

Fees generated are intended to cover staff's administration of the program and recoup expenses associated with higher use. As with all of the provisions of Port District Ordinance Section 302, Regular License Berthing Regulations, the partnership provisions (Attachment A) are intended to ensure the integrity of the paid waiting list for slips. The program also provides boating opportunities for those who may not have a slip.

The 10% fee currently applies to partnerships, regardless of the number of partners in a vessel. There are currently 82 documented partnerships in the harbor. Staff does not maintain a master list indicating how many partners are involved in each partnership. The committee may wish to discuss whether to:

- leave the fee intact (10% of slip rent per partnership vessel);
- enact a 10% of slip rent fee per partner in a vessel;
- enact a sliding scale fee (e.g., 10% for one partner; 15% for two partners; 20% for 3 partners)

ATTACHMENTS A. Port District Ordinance Sections 302(g) and 302(h)

SECTION 302 - Regular License Berthing Regulations

(g) Partnerships at the Time of Slip Assignment

If a boat is owned by more than one individual at the time of slip assignment, the joint owners shall designate one of such owners as their agent. Should a change in ownership occur, only the owners specified at the time of assignment may be granted a continuing slip license unless assigned from the waiting list. There shall be no more than four initial licensees per slip.

(h) Partnerships and Limited Liability Companies

No licensee may permit any other person(s) to use his/her slip through formation of a partnership or limited liability company in a boat (either by selling an interest in the licensee's boat which occupies the slip or buying an interest in another boat and moving it into the slip) unless use of the slip by the partnership or limited liability company is approved by the Harbormaster. In the event a partnership or limited liability company is formed which is not approved by the Harbormaster in accordance with this Section 302(h), the use of a boat slip by members of the partnership or limited liability company other than the licensee shall be grounds for suspension or revocation of the slip license in accordance with Section 201 above.

1) In order to obtain the approval of the Harbormaster of use of the slip by the partnership or limited liability company, as the case may be, the licensee who forms such partnership or limited liability company in a boat (either by selling an interest in his/her boat or by buying an interest in another boat) must show that s/he has kept or obtained an interest in the profits, losses, and liabilities of the partnership or limited liability company which shall own the boat to occupy the slip. Said interest shall be greater than, or equal to, that of each of the other partners or limited liability company members, but in no event less than 25 percent of the total interest in the partnership or limited liability company. There shall not be more than four partners in any such partnership or limited liability company. The requisite share of such partnership or limited liability company shall be shown by presenting the following documents to the District when the formation of the partnership or limited liability company is completed.

A) A notarized bill of sale and/or notarized contract of sale for each share of a partnership or limited liability company in a boat which sets forth the sale price paid or to be paid, and the terms of the payment. No portion of the sale price paid for any such share may be attributable to the value of the slip license to be used by the partnership or limited liability company. For example, if the sale price paid by any licensee for his/her share of the partnership or limited liability company in a boat is substantially less than the fair market value of the share in the boat as reasonably determined by the Harbormaster, or if the sale price paid by any non-licensee partner or limited liability company member for his/her partnership share in a boat is substantially less than the fair market value of the share in the boat as reasonably determined by the Harbormaster, or if the sale price paid by any non-licensee partner or limited liability company member for his/her share in a boat is substantially more than the fair market value of the share of the boat as reasonably determined by the Harbormaster, the use of the slip by the partnership or limited liability company will not be approved by the Harbormaster. The Harbormaster shall not be obligated to obtain a professional appraisal of the fair market value of said share in the boat, but may use such evidence as is reasonably available without additional cost to the District. Notwithstanding the preceding sentence, where the Harbormaster determines that the fair market value of said share is different from that claimed by the licensee, the licensee shall be entitled to obtain, at his/her sole expense, a professional appraisal of the fair market value of the relevant share in the boat, and upon submission of the same to the Harbormaster, the Harbormaster shall weigh such appraisal as evidence of said fair market value in conjunction with all other evidence obtained by the Harbormaster.

B) A fully executed and notarized written partnership agreement or limited liability company operating agreement which provides for joint use of the boat by the partners or limited liability company members and sets forth (a) the share of each partner or member of liability for expenses, such as berthing, financing, maintenance, insurance and taxes, incurred with respect to the boat, and (b) the share of each partner or member of the profits and income upon sale, rental, or other income-generating use of the boat.

C) A receipt from the California State Board of Equalization which documents that the state sales tax has been paid on that portion of the boat that has been sold. For sales of interests in boats exempt from the state sales tax pursuant to Revenue and Taxation Code SS et seq., a cancelled check or other evidence of payment of the purchase price shall be presented to the District; and

D) A new California DMV registration or Coast Guard Document that reflects ownership of the boat by each and all of the partners and limited liability company members; and

E) A Partnership and Limited Liability Company Disclosure Statement completed by the licensee and his/her partner(s). The Harbormaster will review proposed partnership and limited liability company arrangements in boats and advise any licensee who desires to form a partnership in a boat of the licensee's compliance with this section under the proposed arrangement, but such preliminary review and determination of compliance shall not bind the Harbormaster or District. If upon completion of the formation of a partnership or limited liability company respecting a boat the licensee fails to show s/he has kept or obtained the partnership share or limited liability company share in the boat to occupy the slip required herein, use of the slip by the partnership or limited liability company will not be approved by the Harbormaster, and the slip licensee shall have the right to appeal the decision of the Harbormaster to the Port District Commission pursuant to Section 107 of these ordinances.

2) A licensee who forms a partnership or limited liability company in a boat which shall occupy the slip to which the license pertains must show the District within 30 days after written request by the Harbormaster, that s/he has maintained the partnership share or limited liability company share in the boat required in Paragraph 1 above for the year (or portion thereof if the partnership or limited liability company has not yet had District permission to use the slip for an entire year) immediately preceding such request. The licensee's partnership share or limited liability company share in the boat for such year, or portion thereof, shall be shown by presenting the following documents to the District:

A) The books and records of the partnership or limited liability company reflecting the expense of berthing, maintaining, using, insuring (if insurance is obtained), and paying taxes on the boat and the allocation of those expenses among the partners or limited liability company members; and

B) Receipts, cancelled checks or other evidence of documenting which partners or limited liability company members paid the expenses outlined in subparagraph (A) above and how the partners or limited liability company members settled accounts between or among themselves, as necessary.

If the foregoing documents do not substantiate the licensee's maintenance of the requisite partnership share or limited liability company share in the boat during the preceding year, or portion thereof, at the discretion of the Harbormaster, the licensee and his/her partners or limited liability company members may, at their option, present copies of federal and state income tax returns for the partnership or limited liability company, and/or for the partners or limited liability company members, which reflect the allocation of any income earned through use of the boat and deductions available with respect to the boat, such as personal property taxes paid on the boat and interest paid on loans secured by the boat, among partners or limited liability company members. Failure of the licensee to demonstrate s/he maintains the requisite partnership share or limited liability company share in the boat will result in revocation of the slip license. Upon receipt of notice or revocation of his/her slip license, the licensee shall have the right to appeal the Harbormaster's decision to the Port District Commission pursuant to Section 107 of these ordinances.

3) All personal financial information received by the District will be used only for the purpose of enforcing these ordinances and will be kept confidential. The District will not disclose any personal financial information without the prior written consent of the individual to whom the information pertains except as otherwise required or authorized by law. Consent for use of such personal financial information in any hearing before the Port District Commission shall be implied from the appeal by the licensee made pursuant to Section 107, but such consent shall be implied with regard to only those matters relevant to the determination of those issues before the Port District Commission. The District shall return all personal financial information received by the District under Paragraphs (1) and (2) above to the licensee and his/her partners or limited liability company members upon the earlier of (a) dissolution and termination of the partnership or limited liability company, or (b) termination of the slip license by revocation, voluntary surrender, or otherwise.

4) In addition to submitting the documentation required by Paragraphs (1) and (2) above, a licensee who forms a partnership or limited liability company in a boat (either by selling an interest in the licensee's boat or buying an interest in another boat and moving it into the slip) must demonstrate to the reasonable satisfaction of the Harbormaster his/her continued use of the boat on a regular basis. For purposes of this paragraph, "continued use upon a regular basis" is defined to mean taking the boat out of the slip and harbor

at least one time for any length of time on at least ten separate days during any twelve-month period. Notwithstanding the preceding sentence, extended cruises or other lengthy absences from the harbor will be considered on a case-by-case basis by the Harbormaster as evidence of the licensee's continued use of the boat on a regular basis. Where it appears to the Harbormaster that any particular licensee is not continuing to use his/her boat on a regular basis, the Harbormaster may request that the licensee call ahead or check in at the harbor office prior to using the boat. Failure to take advantage of this procedure to substantiate use of the boat shall be considered as strong evidence of the licensee's failure to continue use of the boat on a regular basis. In the event the Harbormaster shall determine a licensee has failed to continue use of the boat on a regular basis in accordance with this Section 302(h), the slip license for the boat shall be subject to suspension or revocation.

5) The original licensee must remain as agent for the partnership or limited liability company, receiving all billings and signing all agreements. The District will negotiate only with the licensee on all matters pertaining to the slip license.

6) If a partnership shall have been approved by the Harbormaster of the Port District prior to January 1, 1981, the licensee of said partnership shall not be required to obtain at least 25 percent interest in said partnership if his/her interest on said date shall be less than 25 percent, and said partnership shall be more than four partners on such date. However, said licensee and partnership shall be required to comply with all other aspects of this revised Section 302(h), including but not limited to the financial disclosure and minimum use provisions.

7) In the event a person (A) shall acquire an interest, either individually or as a member of a joint ownership entity, in a partnership or limited liability company which owns a boat berthed in the harbor and which partnership or limited liability company is not approved, or is originally approved and then later disapproved by the Harbormaster, and (B) such individual is also a member of the waiting list for berthing slips, then the waiting list sign-up date for said individual shall be advanced to a date which is later than the original sign-up date by a period of time equal to that during which such partnership or limited liability company berthed said boat in the harbor, or the period during which such individual was a member of said partnership or limited liability company, to legitimately lease a slip from the Port District for those individuals involved in either an authorized or a sham partnership or sham limited liability company which prematurely allowed such individuals the benefits of use of a slip.



To: Policy – Operations Committee
Chair Smith
Commissioner Goddard

From: Marian Olin, Port Director

Date: July 17, 2018

Subject: Regular Use of Vessel Ordinance Review

BACKGROUND

The purpose of this item is to review the regular use of vessel ordinance (Sections 302(h)(4) and 302.1). The following summarizes major milestones in development of this ordinance over time, which is intended to prevent illegal slip transference and ensure a high level of boating activity at the harbor:

- 1979 Ordinance governing inoperable boats was approved by Commission as a means of addressing issues with vessel non-use
- 1980 Vessel partnership ordinance was adopted with a provision requiring regular use of boat
- 1981 Port District attorney rendered an opinion that the regular use provision for partnerships does not apply to general boat use (i.e., vessels not held in partnership)
- 1982 Regular use of boat provision was added to the slip license agreement. Notice sent to slip licensees August 27, 1982 (Attachment A)
- 1986 Port Commission formally affirmed the use-your-boat policy (Attachment B)
- 1987 Commission amended Ordinance Section 302 to further clarify the definition of regular use (Attachment C)
- 1988 Commission adopted Ordinance Section 302.1, Regular Use of Vessel

The brochure, Highlights of the Slip License Agreement – General Policies and Information (Attachment D) is appended, which has good information about personal use of vessels and excerpts of applicable Port Ordinance sections.

Enforcement of the vessel use list was suspended earlier this year pending a committee review of the policies governing how the vessel use list is administered.

CURRENT PRACTICE

Currently, the harbormaster and deputy harbormaster staff generates the annual vessel use list, and sends letters to slip renters advising them they are requested to check in with the harbor office to log their vessel use (Attachment E). Currently, there are no written guidelines governing how the list is developed. The following criteria are utilized by staff in creating the list:

- obvious signs a vessel has not been used;
- obvious signs of inoperability or dereliction (e.g., no mast on a sailboat);

- expired registration;
- vessel transference issues identified through registration review;
- failure to pick up annual parking permits in a timely manner or failure to respond to correspondence or other contact;
- liveaboard status;
- random selections.

Staff has reduced the number of people put on the list each year to keep it manageable, so not every suspected non-user ends up on the list.

At least two reminders are sent to people on the list midway through the year (Attachment F).

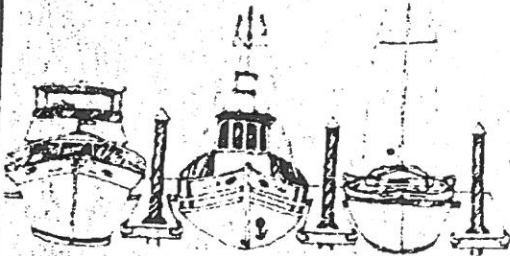
By the end of the year, slip licensees have self-resolved most issues by:

- fulfilling the requirement
- voluntarily releasing slip (e.g., sell boat or release title to boat)
- taking a leave of absence

Those who have not satisfied requirements may be granted an extension by staff due to extenuating circumstances (e.g., health or vessel operability issues pending resolution), or be subject to slip revocation.

The committee may wish to consider developing recommendations on written guidelines for staff's administration of the vessel use list that could be incorporated in Marina Management and Slip Administration policy guidelines.

ATTACHMENTS	A.	Notice to Slip Licensees dated August 27, 1982
	B.	Review of "Use-Your-Boat" Policy: Affirm or Reject dated May 27, 1986
	C.	Amendment of Port Ordinance Section 302(b) dated October 15, 1987
	D.	Brochure: Highlights of the Slip License Agreement – General Policies and Information
	E.	Example of Vessel Use List Notification Letter
	F.	Example of Vessel Use List Reminder Letters



SANTA CRUZ HARBOR

August 27, 1992

Dear Slip Licensee:

Please find enclosed a copy of the Port District's revised Slip License Agreement and an updated copy of the District's ordinances.

The Port District first drafted a license agreement in 1964 with the opening of the lower harbor. This agreement has been amended, with the last revision occurring in 1975. The many changes in District ordinances and policies that have occurred since 1975 have made the drafting of a new agreement necessary to conform with those changes.

I urge you to read this document carefully as it is a legal agreement between yourself as a licensee and the Port District as licensor. I would also like to comment on several provisions which are important changes from the old agreement:

Late Fees

Although the old license agreement contained a provision for a late fee, the District has not, up to now, chosen to enforce it. The new agreement includes a \$10 late fee for slip rent payments received after the 15th of the month and the fee will be enforced. In addition to this, the slip license will be cancelled after the 30th day of delinquency. Presently, a sizable number of boaters have been running 60-90 days behind in their payments and this can no longer be accepted.

Security Deposit

The District has been collecting security deposits from new licensees since 1975. These deposits equal the initial month's rent. However, many boaters who have maintained berths here since before that time did not provide deposits. The District sees no need to attempt to now collect a security deposit from people who have already been licensees in good standing for over seven years. This section expands on how existing and new deposits may be used.


Regular Use of Vessel

The Port District Commission has long been concerned about the number of boats berthed in this harbor which are never or rarely used. The harbor, as a publicly-funded project, was not contemplated, built, or maintained to be merely a storage area for boats. Clearly, the purpose of this harbor is to garage boats between their trips to sea. The Commission has responded to the problem of seldom-used boats by requiring a minimum number (20) of open-water uses per year and by establishing a procedure for the harbor staff to identify these boats and verify actual use. To maintain a berthing license, vessels must be used.

Each license agreement that has been used since 1964 has expressed the Port District's right to modify the agreement provided that 30 days' advance written notice be provided to our licensees. Please be advised that effective October 1, 1992, all existing license agreements will be cancelled. With the signing of the revised agreement, which has been enclosed, and its return to the harbor office, the new agreement will be in effect. To preserve a continuing slip license, the new agreement must be signed and the original copy returned prior to September 30, 1992. A return envelope has been provided. The ordinance booklet is yours to keep.

The revised agreement is the end result of nearly a year's work with the District's legal counsel and the Commission, and has been presented at two Commission meetings for public input. If you do have further questions, or wish clarification of certain provisions, please contact Stephen Scheiblatner, Harbormaster, and he will assist you with answers.

Sincerely,


Joseph G. Townsend, Chairman
Santa Cruz Port District Commission

SSS:JGT:keb

Santa Cruz Port District
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6. Controller's Report

- a) Approval of Financial Statement - March/April, 1986
- b) Approval of Cash/Payroll Disbursements - March, 1986
- c) Approval of Cash/Payroll Disbursements - April, 1986
- d) Receivables Over 60 Days Delinquent
- e) Cash Forecast
- f) 3-Year Average-to-Actual Expenses/Income

Discussion: Commissioners Keran and Townsend asked Controller Smith for clarification of the dependent child care payments which are listed on the warrant list as payroll reductions. Controller Smith explained that this is an IRS approved reduction and the employee's gross salary is reduced by the amount paid directly to the child care provider. He further explained that he had clarified with the Port's insurance company that these child care providers are not considered an employee of the Port in any way. The Commission directed Controller Smith to seek further clarification from the Port's attorney.

Dave Garibotti, representing the Slip Renters' Association, requested a detailed budget for the dredging system procurement. He requested the detail to also show the committed budget amounts.

MOTION: Motion made by Commissioner Townsend, seconded by Commissioner Keran, to approve the Marcy/April Financial Statement, and to approve the warrant/payroll listing for March, totalling \$156,186.60 and April, totalling \$158,928.27.

Motion carried unanimously.

7. Review of "Use-Your-Boat" Policy: Affirm or Reject

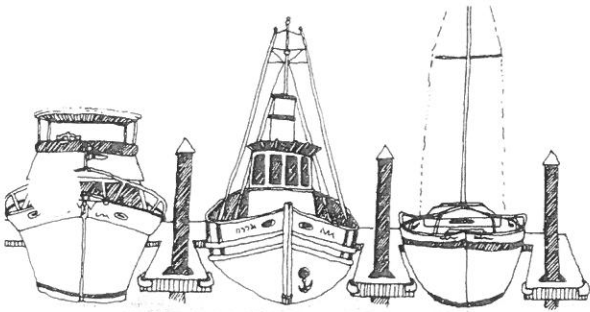
Discussion: Harbormaster Scheiblaue explained that the use requirements became a part of the new license agreement in October, 1982. Harbormaster Scheiblaue requested affirmation from the Commission that this policy is one which they want to continue to enforce.

It was the general consensus of the audience to continue to enforce this rule. There were a few audience members who felt that the elderly boat owners who decline in boat uses should perhaps be handled differently. The Commission's opinion regarding the elderly is that the Harbormaster should use his own discretion in reviewing them on a case-by-case basis.

Vice-chairman Meehan and Commissioner Keran stated that the staff has done a good job in reviewing the policy and used good judgement in the more sensitive cases.

MOTION: Motion made by Commissioner Townsend, seconded by Commissioner Flavell, to affirm the minimum useage requirement of ten ocean uses per year, as stated in the license agreement.

Motion carried unanimously.



SANTA CRUZ HARBOR

TO: Port District Commission
FROM: Commission Slip Policy Committee
DATE: October 15, 1987
SUBJECT: Amendment to Port Ordinance 302(b):
Personal Vessel Use Defined

It is the recommendation of the Port's legal counsel to further clarify the definition of "regular use," found both in the slip license agreement and in ordinance 302(b). This change primarily clarifies that personal, continued use on a regular basis is defined to mean that the licensee must personally and physically be present on the boat on at least ten trips outside the harbor per year. It was strongly felt by the slip policy committee that this is a minimum standard to be expected by all slip licensees.

Section 302(b) is as follows with the new language underlined:

"In the event the harbormaster determines that the documentation submitted by the licensee pursuant to the foregoing paragraph does not conclusively establish that slip license transfer has not occurred, then in lieu of immediate revocation of the slip license, the harbormaster may require the licensee to establish to the reasonable satisfaction of the harbormaster the licensee's own personal continued use of the boat on a regular basis. For purposes of these ordinances, "own personal continued use on a regular basis" is defined to mean that the licensee must personally and physically be present on the boat each time during the taking of the boat out of the slip and harbor for any length of time on at least ten separate days during any twelve month period. The licensee must be able to establish such personal usage for each and every twelve month period selected by the harbormaster occurring after the date on which the harbormaster requires the licensee to be able to establish such usage.."

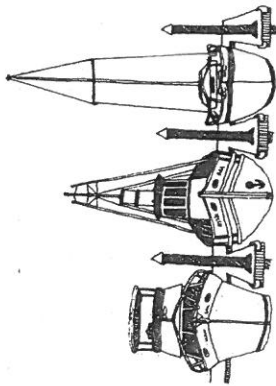
It is the recommendation of the slip policy committee that the full Commission vote to call a public hearing for the November Commission meeting to consider and adopt the amendment to Section 302(b).

keb

Santa Cruz Harbor

HIGHLIGHTS OF THE SLIP LICENSE AGREEMENT

GENERAL POLICIES AND INFORMATION



Gateway to the Monterey Bay National Marine Sanctuary

Santa Cruz Port District
135 Fifth Avenue
Santa Cruz, CA 95062
(831) 475-6161
(831) 475-9558 FAX
www.santacruzharbor.org

HIGHLIGHTS OF THE SLIP LICENSE AGREEMENT:

- The licensee has the exclusive use of a slip; however, to better manage the harbor, the Port District may change the slip assignment with 7 days' notice.
- The license agreement may be terminated by EITHER party; however, 30 days' advance written notice is required.
- The slip license may not be transferred to a second party.
- The Port District is not responsible for the conditions of the harbor entrance channel or for negligence of other harbor users.
- Continued occupancy is dependent upon compliance with District ordinances.
- The slip license will be revoked if the licensee's account becomes more than 90 days' delinquent.
- Slip rent is due on the first of the month. A late fee will be charged for slip rent payments received after the 20th of each month. Interest will be assessed to all outstanding balances on the 30th of each month.
- To maintain a slip license, licensees must take their boats out into the open ocean at least ten times per year.

Read the entire license agreement, it is a legal document.

POLICIES:

In addition to Port District ordinances, as listed in the 1998 Ordinance booklet, a number of important policies have been developed. Some of these policies are briefly summarized below.

1. Dockboxes:

Only boxes made by harbor-approved manufacturers are allowed. A current list of the manufacturers and local distributors can be obtained at the harbor office (the harbor office sells approved dockboxes at competitive prices).

2. Telephone Installation:

Please contact the harbor office for information about telephone installation – there are fees associated with initial installation service.

3. Liveaboards:

The Port District allows liveaboards in up to 10% of its slips. Contact the harbor office for more information.

4. Slip Leave Program

This program is designed for boaters who need a slip leave beyond the six-month occupancy provision. It allows licensees to take a slip leave of up to ten years, while retaining their rights to a slip at a future date. A detailed brochure outlining this program is available at the harbor office.

5. Barbeques

Barbeques are not allowed to be stored or used on the docks. There are manufactured barbeques that attach to the stern of a boat and hang out over the water that are allowed.

6. Slip/Dry Storage License Limit

A person or family (defined as related individuals living under the same roof) may only have a license to use one (1) Santa Cruz Harbor facility for which there exists a waiting list.

7. Satellite Dish

Slip licensees may install a satellite dish, only to a harbor-approved dock box on a 4x4 white painted wooden post – maximum height 5'; maximum dish size 24" diameter. In the event a slip licensee moves slips (whether voluntary or required), or releases their slip, the cost and burden of moving or removing the satellite dish is borne entirely by the slip licensee.

8. Signs on Vessels

Signs on vessels are limited to two per vessel, 24"x24", port and starboard.

PARKING PROCEDURES:

Only two stickers are provided per vessel at no charge. Permits may not be mounted on movable placards, or placed on the dash. Although two stickers are provided, we request that when

possible, you only have one vehicle here at a time. If you have more than two vehicles registered to you for which you want permits, or if you are in an authorized Port District vessel partnership, you may purchase additional stickers at the harbor office.

Following are several other important harbor parking policies:

1) Guests should park in the marked visitor parking spaces only. In the south harbor, these visitor spaces are metered. Parking stickers provided to you are for your own vehicles. Guests at the harbor need to pay for parking in controlled areas. For guests who stay overnight, 24-hour meter passes may be purchased at the harbor office. If a guest arrives after office hours, then the licensee should contact the harbor patrol officer on VHF channel 9 so that arrangements can be made for overnight parking.

2) Except by special permit issued by the harbor office, it is illegal to store a vehicle on harbor property for more than 72 consecutive hours. If you need to leave your vehicle here, unused, longer than 72 hours, please inquire at the harbor office and we will do our best to find a place for your vehicle. Unauthorized stored vehicles will be towed at the owner's expense.

Your cooperation with the Port's permit and guest parking system is greatly appreciated.

THEFT:

Despite patrol efforts, thefts do occur at the harbor. These thefts range from small items (rods, reels, etc.) to expensive electronics and even boats themselves.

Our harbor patrol is active and diligent; however, there are things that you need to do to help yourself.

- Lock your boat, and keep the dock gate closed.
 - Don't leave the boat key aboard.
 - Reinforce dock lines with chain or cable. If you do this, be sure that it is still your lines that take the stress of surge and not the chain.
 - Lock your dinghy to your boat or the dock.
 - Don't stow gear in the cockpit.
 - Put decals or identifying signs on the boat and personal identifying numbers in secret places. Engrave your driver's license number on your property.
 - Don't leave hatches or ports open for ventilation if they are large enough for entry.
 - Keep an inventory of equipment by brand name and serial number.
 - Use good locks and stainless hasps; keep screw heads concealed.
 - Report any suspicious activity or people you observe on the docks or in the general harbor vicinity, by contacting a harbor patrol officer on VHF channel 9 or 16 (24 hours/day) or by phoning the harbor office (475-6161) 9:00 am to 5:00 pm daily, or through the City Police Dispatch (471-1134) for after hours non-emergencies. Harbor patrol officers may also be reached after hours by calling their pager (480-4564) or via cell phone (212-4261).
- For emergencies, call 911.*
- Report all thefts to the harbor office as soon as they are discovered.

ELECTRICAL USE ON UNATTENDED BOATS:

While the energy conservation measures that the Port District has encouraged have been partly successful, PG&E rate increases and increased usage by boaters demand new solutions. In order to be fair to those who use no power, and to those who need various amounts, the following ordinance is in effect:

Section 220 – Electrical Use on Unattended Boats

The Port District Commission shall set fees for unattended vessels using or connected to shore power. These fees shall be reviewed from time to time and may be amended as needed by the Commission.

The use of heat lamps, sun lamps, or portable space heaters on unattended vessels is prohibited. The use of more than 800 watts at any time by an unattended vessel is prohibited. Should a vessel be found to be using more than 800 watts, the Port District will notify the boat owner by telephone or mail that he is in violation of this ordinance. The boat's electrical consumption will be rechecked seven (7) days after the first check. If the boat is still using more than 800 watts, the boat will be disconnected from shore power.

For the purpose of this section, Port District approved liveboard vessels will be considered "attended" whether or not anyone is aboard.

PERSONAL USE OF VESSELS:

There are two aspects that the Port has long been concerned about regarding "use" of the Port slips. The first aspect is that the public property (slip) not be wasted by vessels simply sitting in them and never making use of the open waters. The second aspect of use regards the personal use by the individual who is the licensee with the Port. It is the named individual and his/her spouse who has slip rights to use the public facility. The Port has never tried to limit the use of slips solely to licensees; i.e., we allow vessel partnerships under certain circumstances, we allow other friends/employees to use vessels, and we allow chartering of vessels. However, in all these circumstances, the Port has drawn the line with a requirement that the licensee continues to personally use the vessel a minimum number of times per year.

This personal use requirement is found consistently throughout a number of harbor rules and regulations. First and foremost, the reason for the personal use requirement is because the Port has developed a strict policy of non-transference. We have not wanted the slip licenses to transfer by any other means, except through the waiting list or by special Commission action.

The requirement for regular use is found in the Slip License Agreement, Section 4, (h), which reads:

"Owner shall make continuous use of the vessel on a regular basis. For the purpose of this paragraph, 'continuous use on a regular basis' is defined to mean the taking of the vessel out of the slip and harbor at least one time, for any length of time, on at least ten separate days out of any twelve-month period. Owner shall maintain such usage at all times during the term of this agreement for each and every twelve-month period which may be selected by the Port District upon examination of owner's pattern of usage."

Also, Port Ordinance 302(b), which governs slip license non-transference states, in part:

"A licensee shall not transfer, voluntarily or involuntarily, all or any portion of his rights under his slip license. A slip license shall be deemed transferred in the event the licensee transfers all or any interest in the legal or record ownership of the boat occupying the slip to which the license pertains. The licensee shall inform the Harbormaster of any such transfer by the licensee or any other licensee in violation of this provision of which he has knowledge."

Also in Section 302(b):

"For purposes of these ordinances, 'own personal continued use on a regular basis' is defined to mean that the licensee must personally and physically be present on the boat each time during the taking of the boat out of the slip and harbor for any length of time on at least ten separate days during any twelve month period."

Section 302(b) concludes with:

"In the event the Harbormaster shall determine a licensee has failed to continue use of the boat on a regular basis in accordance with this Section 302(b), the slip license for the boat shall be subject to suspension or revocation."

Port Ordinance 302.1(a) states:

"The owner/licensee under any slip license agreement or addendum or modification thereto shall make continuous personal use of the vessel (vessel means the vessel as defined in the slip license agreement) on a regular basis. For purposes of these ordinances, 'continuous personal use of the vessel on a regular basis' is defined to mean that the owner/licensee must personally and physically be present on the boat each time during the taking of the boat out of the slip and harbor for any length of time on at least ten separate days during any twelve month period. The owner/licensee must be able to establish such personal usage for each and every twelve month period selected by the Harbormaster."

Port Ordinance 302(e), which governs the use of slips by non-licensees, states:

"No licensee may sublease, subrent, or sublicense a slip to another person, except through the Harbormaster's office and according to standard procedure set forth... use of a licensee's vessel by any person other than the licensee, in the form of a charter, rental agreement, lease, or any other arrangement, whereby some person other than the slip licensee is afforded the use of the licensee's slip shall constitute a sublease of the slip and shall be subject to the provisions of this section."

Lastly, **Port Ordinance 302(h)**, governing partnerships, also requires personal use by the licensee and allows for the District to request check-ins and if personal use is not substantiated, the slip license may be terminated.

The purpose of these ordinances is not to prevent slip licensees from allowing their friends or employee from using their vessels. It is simply to require that a licensee also continue to use the vessel to a certain degree as required in the slip license agreement with the Port District.

January 21, 2017

XXX
XXX
XXX

SUBJECT: 2017 USE LIST NOTIFICATION

Dear Mr.XXXX:

The Port District Commission is concerned about the number of seldom-used (or non-used) vessel occupying slips in the harbor.

This letter is to inform you that you are being placed on the vessel use list for 2017, which requires you to check-in with the harbor office via phone or VHF radio over the next twelve months to confirm the ocean-going use of your vessel. Harbor Patrol is available 24 hours a day to confirm and log your usage.

A minimum of 10 vessel uses must be completed by you, by no later than December 31, 2017. If your vessel is held in a partnership, please note that a partner's use of the vessel will not fulfill the minimum use requirement. You, as the licensee, must be physically on board the vessel during each verified vessel use.

If you are unable to meet the minimum vessel use requirement, you will be in violation of Port District Ordinance Section 302.1 – *Regular Use of Vessel*, which leaves your slip license agreement subject to revocation. There are other options you may wish to consider:

- The vessel sale / one-year license program which allows you to sell your vessel and release your slip, making the new buyer eligible for a one-year slip license;
- The slip leave program which allows you to release your slip and protect your right to return to the same size slip for a period of up to ten years;
- A slip release, which relinquishes your berthing rights at Santa Cruz Harbor.

Please contact me at your earliest convenience to discuss this requirement, the options available to you, and any medical, mechanical, or other issue that may affect your ability to comply.

Sincerely,



Latisha Marshall
Harbormaster

May 4, 2017

XXX
XXX
XXX

SUBJECT: USE LIST REMINDER NOTICE

Dear XXX:

As you know, you are required to check in with the harbor office at least ten times to verify the ocean-going use of your vessel during the 2017 season. This is a reminder that when you use your vessel between now and December 31, 2017, you need to check-in with the harbor office to verify your boat usage. You presently have 2 check-ins logged.

At the conclusion of December 31, 2017, any person without ten documented uses will be subject to revocation of slip license. If you have any questions about the vessel use requirement or check-in procedure, please contact me directly at the harbor office.

Sincerely,



Latisha Marshall
Harbormaster

September 8, 2017

XXX
XXX
XXX

SUBJECT: USE LIST FINAL REMINDER NOTICE

Dear XXX:

As you know, you are required to check in with the harbor office at least ten times to verify the ocean-going use of your vessel during the 2017 season. This is a final reminder that when you use your vessel between now and December 31, 2017, you need to check-in with the harbor office to verify your boat usage. You presently have 0 check-ins logged.

At the conclusion of December 31, 2017, any person without ten documented uses will be subject to revocation of slip license. If you have any questions about the vessel use requirement or check-in procedure, please contact me directly at the harbor office.

Sincerely,



Latisha Marshall
Harbormaster