



Ordinances and Resolutions Pertaining to Waterside Permits

Resolution 04-30 Administrative Procedures for Waterside Project Permits

Section 1. Harbor Committee

- a. The City shall appoint not less than five nor more than seven interested residents of Avalon or employees or principals of a business operating in the Avalon Harbor to serve on the Harbor Committee. Each committee member shall serve a two-year term. The Harbor Committee shall be responsible for recommendations to the City Council on the issuance, renewal of waterside project permits and other issues relating to or affecting the operation of businesses in the Harbor or as requested by the City Council.

Section 2. Review of Harbor Operations

- a. During October / November of each year, the Harbor Committee shall undertake an analysis of all Avalon Harbor activities during the prior twelve (12) months. The review will be conducted in order to determine a baseline for the next calendar year of the number and types of businesses operating in the Harbor and the impact of the mix of such businesses on safety, tourism, transportation and recreation and other activities.

Section 3. Issuance, Modifications and Renewal of Permits

- a. The City Manager shall approve an application form to be used for all waterside project permit applications.
- b. Application for new uses shall be accepted until December 15 of each year.
- c. Prior to December of each year, the Harbor Committee shall review all existing permits whose terms are to expire on December 31. If the Harbor Committee determines that because of changed circumstances, a permit should not be renewed, or should be renewed on different terms and conditions, it shall forward its recommendation thereon to the City Council for action, together with a list of all permits that it recommends should be renewed for another term without change. All recommendations of the Harbor Committee shall be subject to verification by the Finance Department that the permit holder is in good standing with respect to harbor use fees, rents and admission taxes and insurance requirements. With respect to fees, rents and admission taxes, good standing includes execution of and compliance with a payment plan.
- d. Requests by the permit holder for modifications to existing permits which do not qualify for administrative review by the Harbor Master, may be submitted and



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reviewed by the Harbor Use and Scheduling Committee at any time; provided however, that action thereon may be delayed until the December / January review period at the discretion of the Harbor Master and the Harbor Committee.

Sec. 10-2.402 Use of Harbor Related Facilities: Use Fees

Wharfage, dockage, landing and use fees for the use of or impact upon any harbor or harbor-related facility owned or controlled by the City of Avalon shall be as follows:

(a) Except as otherwise specifically provided in this article, for all boats, ships, vessels, airplanes or other transportation facilities carrying passengers for hire or charter, whether operating under the authority of the California Public Utilities Commission or not, which land, discharge, load, or embark passengers on, to, or from such City harbor facilities Two Dollars and Fifty Cents (\$2.50) for each passenger so landed, discharged, loaded or embarked.

(b) For all cruise ships, Two Dollars and Fifty Cents (\$2.50) per passenger, which fee shall be levied upon eighty (80%) percent of the manifest passengers, excluding persons employed upon the vessel. As used in this section "cruise ship" means a vessel which lists Avalon as a port-of-call and which anchors so as to permit passengers to disembark and to return to the same vessel.

(c) For businesses engaged in the operation of excursion boats using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use. For the purpose of this section, "excursion boats" shall mean vessels operating from points in the City and returning thereto for sightseeing scenic tours or as pleasure cruises, and carrying passengers for hire, but not providing facilities for overnight stays.

(d) For businesses engaged in the operation of "shore boats," as defined herein, and using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use, excepting therefrom receipts for transportation of passengers to and from "cruise ships," as defined in subsection (b) herein, or as otherwise provided in an applicable franchise agreement issued pursuant to Section 10-2.410. For the purpose of this section, "shore boats"

shall mean vessels carrying passengers or freight for hire to and from boats moored within or without City waters to the shore in Avalon, between such boats in City waters or between points on the shore in Avalon.



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(e) For all operators of fishing tournaments whose participants use City harbor facilities during the course of such tournaments, a use fee in an amount set by resolution of the City Council. This subsection shall not apply to any fishing tournament which donates 50% or more of the gross proceeds of such tournament to a qualified non-profit group or groups which primarily serve residents of Catalina Island.

(f) For all other businesses not otherwise expressly provided for in this Section 10-2.402 carrying passengers for hire by vessel from points in the City and returning thereto, or from one point in the City to another point therein, or engaged in the renting, leasing, or chartering of boats, paddle boards, rafts, or other floating watercraft for hire and using City harbor facilities, or whose patrons regularly use such facilities for launching, landing, boarding, unloading, embarking or disembarking, docking, or other similar uses, or whose business activities involve the use of such facilities, seven (7%) percent of the gross receipts derived from such use.

The fees for the use of such facilities by those not falling within the classifications set forth in subsections (a) through (d) of this section shall be determined initially by a schedule adopted by the Council or shall be incorporated into the flat rental of any contract, permit, lease, franchise or other agreement entered into for use of the facilities.

The fees authorized by the provisions of this section shall be in addition to any rents paid to the City, and all other taxes, license and permit fees, if any, including those paid pursuant to the provisions of Section 10-2.410 of this article. There shall be a credit of taxes paid, if any, pursuant to the provisions of Title 3, Article 3, Chapter 3 and Section 3-1.204 subsections (b) through (f).

Sec. 10-2.403 Fishing Tournaments: Statements.

All fishing tournament operators required to pay the fees set forth in subsection (e) of Section 10-2.402 of this article shall submit to the Finance Department a list of all boats charged an entry fee to participate in the tournament and shall pay the fees provided for in said section. The statement and use fee payment shall be submitted before the tenth day of the month immediately following the end of the tournament.

Sec. 10-2.410 Permits; Franchises to Conduct Businesses

(a) The City facilities serve as a primary point of ingress and egress for large numbers of people and their relatively small size make necessary control and coordination of businesses operating on the City facilities to avoid undue congestion, to assure against hazard, excessive noise and traffic and to prevent confusion and injury.



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(b) It is necessary and vital to the safe and efficient movement of people through the City facilities that the number, nature and scope of businesses on the City facilities be regulated to protect the safety and welfare of all persons. The Council shall, accordingly, have the power and authority, in its discretion, to authorize the use or occupation of the City facilities or some portion thereof to any person by issuance of a waterside project permit. It shall be unlawful for any person, entity or business to use or occupy City facilities for any business purpose, including all land transportation services, without first being issued a waterside project permit by the City Council and entering into a permit agreement.

Notwithstanding the foregoing, the City Council may, in its discretion, award exclusive franchises for shore boat service and baggage handling service on the Mole, for a term not to exceed five (5) years. Such franchises are vital and necessary to the public safety and welfare in that a proliferation of such services within the limited area available would make for excessive traffic congestion and confusion.

(c) Neither franchisee need obtain a separate waterside project permit under this section but shall be holders of a City business license. The franchisee shall enter into a franchise agreement with the City which sets forth the terms and conditions of operation of such services.

(d) For the reasons set forth in paragraphs (a) and (b) above, it is necessary to establish limitations and restrictions on businesses providing non-vital recreational services in the harbor. The following regulations are designed to reduce congestion and to encourage safe, reliable, and year-round provision of recreational services:

(1) No more than one hundred fourteen (114) watercraft rentals-without-operator vessels shall be granted harbor permits.

(2) All businesses operating in the harbor, except those enumerated in paragraph (b) of this section and fishing tournament operators, shall maintain a shore base of operations or an office on Santa Catalina Island. Such office shall have a business telephone which is covered twenty-four (24) hours per day. Any answering service or mechanical means of recording messages may be used provided messages are checked by the operator no less than three (3) times per day.

(3) All businesses operating in the harbor, except those enumerated in paragraph (b) of this section shall provide an insurance policy in compliance with Section 1-6.01 of this Code, shall hold a City business license and shall hold all necessary permits, licenses, certificates or other similar approvals necessary under the law for the type of service performed.



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(4) In addition to the provisions of Section 10-2.402, all businesses operating within the harbor, except those operating pursuant to a franchise issued by the City, shall:

(i) In the case of new cross-channel carriers, obtain and keep in force a bond or bank letter of credit to secure payment of wharfage fees in the amount of One Hundred Thousand and no/100ths (\$100,000.00) Dollars.

(ii) In the case of waterside permit holders other than cross-channel carriers and other than fishing tournament operators subject to this article which have held fishing tournaments in Avalon prior to the effective date of this ordinance, pay to the City a non-refundable use fee deposit of \$1000 (One Thousand Dollars), payable in two installments of \$500 each, the first installment on the inception of operations within the Avalon Harbor and the second on August 1. The use fee deposit may be applied against use fees due and owing under Section 10-2.402 at such time that the permittee has made timely payment of use fees for thirteen consecutive months.

(iii) In all cases where the business operates seven (7) or more months during any twelve (12) month period, pay to the City use fees under Section 10-2.402 no fewer than seven (7) months of any twelve (12) month period, and in no event less than the sum of Twenty-Five and no/100ths (\$25.00) Dollars per month for each month the business is operating and reports sales receipts.

(iv) In all cases except fishing tournament operators, where the business operates fewer than seven (7) months during any twelve (12) month period, pay to the City a use fee of Two Hundred and no/100ths (\$200.00) Dollars for each month the business is closed or does not report any sales receipts.

(5) The charges authorized by paragraph (4) of this section shall be in addition to any payments pursuant to the provisions of any lease agreement.

(6) All vessels over sixteen (16') feet in length operated for hire or used to conduct work in the harbor shall be equipped with a marine radio which shall be monitored at all times that the vessel is in operation.

(7) All businesses operating in the harbor shall maintain all equipment, materials, facilities, machinery and vessels utilized in the operation of the licensed business in a good and working condition, and such businesses shall only employ workers who are qualified to conduct the duties appropriate to the licensed business.



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(e) For the purposes of this section, "harbor" shall mean that area from inside Cabrillo Mole to inside Casino Groin.

Section 10-2.412 Waterside Project Permits: Applications and Process

(a) *Permit Required.* No person shall conduct any business or commercial enterprise in the Avalon Harbor or hold himself out as available to conduct any business or commercial enterprise which emanates from the Avalon Harbor, and including any business or commercial enterprise whose patrons use shoreboats to be transported to the enterprise's vessel(s), unless a waterside permit has been obtained therefor in accordance with administrative procedures adopted by resolution and on forms to be approved by the City Manager. Except with respect to businesses described in subsection (b), the application shall include, among other information:

- (1) The name, address and telephone number of the applicant, and if the applicant is other than a natural persons, the names and addresses of all partners, officers or members of the entity and the name of the agent for service of process;
- (2) The names of vessels, a description of the business to be carried on by means of such vessels, and a reference to the business and other license(s) held by such applicant;
- (3) A description of the space on City facilities, floats, or landing stages that the applicant desires to use in carrying on such business; and
- (4) A statement to be signed by the applicant acknowledging that if such permit is granted, he will conduct his business in accordance with the laws of the City in relation thereto, the terms of the permit and all rules and regulations regarding City facilities; that the permit may be revoked at any time by the Council for violations of the foregoing, including failure to pay use fees; and that the decision of the Council as to the revocation of any permit shall be final and conclusive.

(b) Persons or entities which conduct fishing tournaments within Avalon Harbor shall submit an application which includes the following information:

- (1) The name, address and telephone number of the applicant, and if the applicant is other than a natural persons, the names and addresses of all partners, officers or members of the entity and the name of the agent for service of process;



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(2) The name of the tournament, a description of the tournament including the proposed dates therefor, the maximum number of participating vessels, and a reference to the business and other license(s) held by such applicant;

(3) A description of the space on City facilities, floats, or landing stages that the applicant desires to use in carrying on such business; and

(4) A statement to be signed by the applicant acknowledging that if such permit is granted, he will conduct his business in accordance with the laws of the City in relation thereto, the terms of the permit and all rules and regulations regarding City facilities; that the permit may be revoked at any time by the Council for violations of the foregoing, including failure to pay use fees; and that the decision of the Council as to the revocation of any permit shall be final and conclusive.

(c) *Renewal of Permits.* All permits shall expire on December 31 but shall be renewable pursuant to the criteria set forth in Section 10-2.416, according to procedures adopted by ordinance or resolution of the City Council.

Sec. 10-2.413 Waterside Project Permits: Employees

Where a water-side project permit is desired for a person to carry on business as an employee or agent for any person, the application for such permit shall be approved by the principal of such person, and such permit may be revoked at any time without notice to the holder thereof upon the request of such principal so to do.

Sec. 10-2.414 Waterside Project Permits: Terms and Conditions

All waterside project permits shall be on forms to be adopted by the Council and shall include such terms and conditions, in addition to those set forth in this chapter, as the Council may determine from time to time to be necessary or advisable to preserve the public peace and quiet on the City facilities or to protect the public welfare, and all such terms and conditions included in any such permit shall be binding on the holder of such permit to the same extent as though expressly set forth in this chapter.



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Sec. 10-2.415 Waterside Project Permits: Suspension and Revocation

(a) Suspension. The Council may, in its discretion at any time, as a penalty for the violation of the provisions of any waterside project permit, suspend the same for a period to be fixed in such order of suspension.

(b) Revocation. All waterside project permits issued shall be granted and accepted by all persons receiving such permits with the express understanding that the Council may revoke the same at any time if satisfied that any of the conditions of the permit or provisions of this chapter have been violated, or that such permit was obtained by fraudulent representation, or that the holder of any such permit is an unfit person to be entrusted with the

privileges granted by such permit; provided, however, no permit shall be revoked without first giving the holder an opportunity to appear before the Council in his own behalf, except as to an employee or agent of some other person holding a waterside project permit who requests such revocation.

Sec. 10-2.416 Criteria for Issuance of Waterside Project Permits

(a) Except for business operations described in subsection (b), the City Council shall grant a waterside permit for use of or operations upon, in or affecting City harbor facilities, provided it is able to make the following affirmative findings:

(1) The project will not result in a substantial alteration of the City's present or planned waterside uses of the Avalon Harbor;

(2) With regard to transportation and circulation, the project (i) will not generate substantial additional boat trips, including shoreboat trips, or other movement within Avalon Harbor; (ii) will not have a substantial negative impact upon existing mooring, docking, or other anchorage facilities; (iii) will not have a substantial impact on other modes and systems of transportation; (iv) will not result in substantial alterations to present patterns of circulation or movement of people and/or goods; (v) will not increase traffic hazards to swimmers, boaters, or other existing activities; and (vi) will not restrict or alter existing coastal access;

(3) The project will not have a substantial effect upon and will not result in a need for new or altered governmental services, including but not limited to, fire, police, maintenance of facilities, and harbor department services;



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(4) The project will not result in the use of substantial amounts of fuel or other forms of energy or substantially increase the demand upon existing sources of energy or require the development of new sources of energy;

(5) The project will not result in a need for new utility systems or a substantial alteration of existing sources or systems for power, natural gas, communications, waters, sewage disposal or solid waste disposal;

(6) The project will not obstruct any scenic vista or view open to the public, and will not result in the creation of an aesthetically offensive site which is open to public view;

(7) The project will not result in a substantial negative impact upon the quality and quantity of existing recreational opportunities or result in alterations or restrictions to coastal access;

(8) The applicant is fit to be entrusted with the privileges of a permit, in that he has not engaged in prior violations of City's harbor regulations, including the provisions of this article, has timely paid any harbor related fees and has not presented checks returned for insufficient funds.

The City Council may deny the permit where the impacts listed in paragraphs (1) through (8) above are cumulatively significant, even though the individual impacts are limited. The City Council may approve a project where mitigation measures eliminating significant impacts are incorporated into the project, and the approval shall be conditioned upon the implementation of such mitigation measures. The failure to comply and maintain any mitigation measures shall be a basis for suspension or revocation of a waterside project permit pursuant to Section 10-2.415.

(b) The Harbor Master shall grant a waterside project permit for fishing tournament operations if he is able to make the following affirmative findings:

(1) The tournament will not result in substantial harbor congestion or conflict with other previously scheduled events;

(2) The tournament will be conducted after Labor Day and not prior to May 15 if the tournament is one which does not donate 50% or more of its gross proceeds to a non-profit group or groups which primarily serve residents of Catalina Island; and

(3) There are sufficient resources to accommodate the maximum number of vessels expected to participate in the tournament.



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Sec. 10-2.417 Loading Passengers and Freight

It shall be unlawful for any master, owner, agent, or other person having the charge or control of any boat, vessel, or watercraft to lay at, remain alongside, or tie up to the City facilities, or any float, landing stage, or approach thereto in use in connection therewith, for any longer period than is actually necessary to take on board the passengers or freight in waiting on the City facilities or float and ready to be taken aboard, or than is actually necessary to discharge the passengers or freight of any such boat or vessel.

Sec. 10-2.418 Loading Passengers and Freight: Time Limited

It shall be unlawful for any master, owner, agent, or other person having the charge or control of any boat, vessel, or watercraft to lay at or remain alongside the City facilities, or any float, landing stage, or approach thereto in use in connection therewith, for a longer period than ten

(10) minutes; provided, however, if it is impossible to receive on board all the passengers or freight in waiting on the City facilities or float for such boat or vessel, or to discharge all the passengers or freight from any such boat or vessel during such period, by using all reasonable diligence so to do, such period shall be extended until all such passengers or freight are taken aboard or discharged, as the case may be.

Sec. 10-2.419 Loading Passengers and Freight at Places Other Than City Facilities.

It shall be unlawful for any captain, master, or other person having the charge or control of any boat, ship, or vessel to land or discharge freight or passengers upon, or to take on board or receive freight or passengers, from any public street in the City or from any portion of the beach or waterfront of the City under the control of the City other than the City facilities.

Sec. 10-2.420 Vessel Passengers to Use City Facilities Only

It shall be unlawful for any person to land, or attempt to land, from any boat, ship, or vessel carrying passengers for hire, upon any public street in the City or upon any portion of the beach or waterfront of the City under the control of the City other than the City facilities, or to



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go aboard any such boat, ship, or vessel carrying passengers for hire from any public street in the City or from any portion of the beach or waterfront of the City under the control of the City other than the City facilities.

Sec. 1-6.01 Public Liability Insurance

Applicants for permits or franchises and parties to leases and contracts with the City of Avalon may be required by the Avalon Municipal Code or the City Manager to maintain a policy of public liability insurance. Such policy shall:

(a) Contain broad form commercial general liability insurance, or in the case of marine operations, the substantial equivalent, with respect to the Premises, as applicable and the permittee, franchisee, contractor or lessees' activities with a combined single limit of not less than \$1,000,000 per occurrence and aggregate. Such insurance shall be produced by an insurer authorized to do business in California with a then current Best's Insurance Guide Rating of not less than A-VII. , shall name the City of Avalon, its officers, agents and employees as additional insureds, and shall contain a provision that prohibits cancellation, modification or; and

(b) Name the City as additional insured and contain a waiver of subrogation against the named insured or respective officers, employees, agents; and

(c) Provide that it may not be canceled without at least thirty (30) days prior written notice to the City; and

(d) Provide primary and not excess coverage Insurance coverage shall be subject to the approval of the City.

The applicant shall provide evidence of such insurance coverage by providing the City with a copy of the policy and/or a copy of a fully explanatory certificate of insurance, as determined by the City.

Resolution 96-36 Mandatory Activation Dates for Waterside Permits

Section 4. All newly permitted businesses must have proof of insurance, other required permits and/or leases, and all required deposits in place prior to commencing business operations in Avalon Harbor. All new permits issued before January 31 will expire on April 1 of the year of issuance unless the business is operating as of that date. All new permits issued



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after January 31 will expire sixty (60) days after issuance unless the business is operating as of that time. The Harbor Master shall have the authority to grant one extension of thirty (30) days of the time within which a business must be operating, upon showing a good cause.

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