



CITY OF LONG BEACH

R-38

DEPARTMENT OF PARKS, RECREATION & MARINE

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April 15, 2008

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute a permit with Beach Ventures, Inc., and all documents necessary for the operation of a vessel mooring program adjacent to the City's beaches, for a ten-year term, with two five-year options at the discretion of the City Manager; and approve the City of Long Beach Mooring Rules and Regulations. (Districts 2 and 3)

DISCUSSION

The City, through its Department of Parks, Recreation and Marine (PRM), has been working for approximately five years to implement an offshore mooring program. Initially, PRM contemplated implementing and operating the mooring program internally, but decided that utilizing an outside company to install and operate the program would be more prudent. A Request for Proposals (RFP) was developed and advertised, and the City received two responses to the RFP. Beach Ventures, Inc., was determined to be the more responsive of the two companies.

The mooring program proposal has been taken through the permitting process and received a Mitigated Negative Declaration from the Department of Planning and Building, which was certified by the Planning Commission on May 3, 2007. The certification was appealed to the City Council, and City Council denied the appeal on June 19, 2007. The California Coastal Commission approved a Local Development Permit for the mooring program on March 5, 2008.

The majority of the opposition regarding the proposed mooring program centered on the impact the program would have on the City's water quality. The City has worked with Beach Ventures, Inc., and other jurisdictions that operate successful mooring programs in the region, to develop City of Long Beach Mooring Rules and Regulations (Attachment A). These rules and regulations contain environmental protection rules and penalties that are more stringent than any mooring program in the region.

The following are major provisions of the proposed permit:

- Premises: Offshore area of the City, as approved by the Department of Parks, Recreation and Marine.

- Permitted Use: Installation and operation of up to 45 moorings.
- Term: Ten years, through April 14, 2018.
- Renewal Options: Two five-year renewal options, at the discretion of the City Manager or his designee.
- Rent: Ten percent of gross program revenues, paid monthly.
- Maintenance: Beach Ventures, Inc., will be responsible for all maintenance related to the mooring program.
- Insurance: Beach Ventures, Inc., shall provide insurance coverage as defined by the City's Risk Management Office.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on March 26, 2008, and Budget Management Officer Victoria Bell on April 1, 2008.

TIMING CONSIDERATIONS

City Council action is requested on April 15, 2008, to enable the execution of the permit in order to allow for mooring installation before the summer of 2008.

FISCAL IMPACT

Revenue estimated at \$30,000 a year will be deposited in the Tidelands Fund (TF) in the Department of Parks, Recreation and Marine (PR).

SUGGESTED ACTION:

Approve recommendations.

Respectfully submitted,



PHIL T. HESTER
DIRECTOR OF PARKS, RECREATION AND MARINE

PTH:MS:bjg

Attachment: City of Long Beach Mooring Rules and Regulations

APPROVED:



for PATRICK H. WEST
CITY MANAGER

CITY OF LONG BEACH MOORING RULES and REGULATIONS



Prepared by
CITY OF LONG BEACH
Parks, Recreation and Marine Department
Marine Bureau



PURPOSE

The City of Long Beach mooring regulations are established to define the efficient utilization of the mooring areas and to improve public access and safety for the enjoyment of all users of the mooring areas as well as the greater oceanfront water areas. This is to be accomplished by establishing standards of use and availability of moorings for the widest possible public use.

DEFINITIONS

City – The City of Long Beach and its Parks, Recreation and Marine Department and Marine Bureau as represented by the Manager of the Marinas and Beaches

Concessionaire – The entity that holds the Mooring permit with the City of Long Beach.

Mooring Master – The Mooring Master as assigned by the Concessionaire as specified in the mooring field concession agreement between the City and the Concessionaire. The responsibilities of the Mooring Master are as described in these regulations.

Marine Safety – Officers of the City Fire Department, Marine Safety Division, with enforcement authority over the City's waters.

Mooring – A permanently installed system to provide anchorage for the temporary use of a vessel assigned for this use.

Mooring Year – The annual period of time from January 1 to December 31, inclusive.

Permittee – The person to whom a revocable mooring use permit is issued.

Revocable Mooring Vessel Permit (Permit) – A permit issued by the Mooring Master for a specified period, which authorizes the use of a City of Long Beach Mooring in accordance with the Mooring Regulations.

Vessel – Every description of watercraft used for water born recreation and transportation.

Vessel Length – The manufacturer's length of the vessel, as registered with the State Department of Motor Vehicles or Coast Guard, in the case of a documented vessel. Where the vessel has been modified, the Mooring Master shall determine the length of the vessel using any reasonable method. Detachable swim steps and bow pulpits shall not be included in determining length.

MOORING FIELD BOUNDARIES

The boundaries of the mooring fields are approved by the City of Long Beach, and are generally located in the vicinity of the Belmont Veterans Memorial Pier and to the leeward side of Island White. The mooring field boundaries can be modified by the City of Long Beach, as it deems necessary from time to time. A drawing that depicts the general

boundaries will be maintained by the City and the Mooring Master, and will be available for viewing upon request.

MOORING MASTER REPONSIBILITIES

Under the supervision of the Marine Bureau, the Mooring Master shall have the following authorities as duties with respect to the mooring fields:

1. To enforce the provisions of these regulations.
2. To cooperate with the Marine Safety Division for safety of the boating public.
3. To perform such other duties as may be required by the concessionaire or the City.

VESSEL MOORINGS

The moorings are intended for the short term mooring of recreational vessels only. The moorings are not intended to serve as long term berthing solution for any vessels, at any time for any reason.

The moorings will be installed in accordance with the plans and specifications, prepared by an engineer registered in the State of California, and as approved by the City and State Coastal Commission. The Mooring Master will maintain a set of these drawings in the Mooring Master office, and will make these drawings available for viewing upon request.

The moorings are owned, installed and maintained by the Concessionaire. Maintenance of the mooring(s) will be at the expense of the permittee, unless the mooring is unassigned, wherein the Mooring Master will be responsible for maintenance of the mooring.

NUMBER OF VESSEL MOORINGS AND PERMITS

The Mooring Master will be responsible for the installation of the moorings up to the maximum number allowed in accordance with the plans as approved by the City Marine Bureau and other required regulatory agencies. The total number of moorings shall be as approved by the City. The number of moorings is subject to change from time to time, based on approval of the City and other required regulatory agencies.

The Mooring Master shall in no case have more than 50% (fifty percent) of the total umber of moorings assigned with revocable permits at any one time.

Of the remaining 50% (fifty percent) of the unassigned moorings, at least 40% (forty percent) shall remain unassigned and available for the general boating public, and no more than 10% (ten percent) shall be designated for the use of vessels used to service the mooring operation.

No one person shall be assigned more than one revocable mooring use permit.

The Mooring Master may assign temporary use of a permitted mooring to a guest boater when the mooring is not reserved by the permittee. The vessel occupying a mooring on a temporary basis must give up the mooring for any reason on the Mooring Master's order.

The Mooring Master's order will be made known to the vessel owner or the operator in charge of the moored vessel.

REVOCABLE MOORING VESSEL PERMIT AND APPLICATION

The Mooring Master has the right, but not the obligation, to issue revocable permits for the privileged use of an assigned mooring.

The payment of fees for the revocable permit entitles the permittee to preferred use of the assigned mooring. The permittee is required to notify the Mooring Master before 9:00 a.m. day the permittee intends to use the mooring assigned to him. Failure to do so shall place the Mooring Master under no obligation to remove a guest vessel.

The permittee is entitled to occupy the mooring in compliance with the conditions of these regulations and shall pay the stated daily rates.

The permittee will be responsible for the payment of any maintenance of the mooring system required to be performed by the Mooring Master.

A revocable permit may only be issued to the registered owner of an insured vessel. The revocable permittee may, however, reserve the use of the mooring for any vessel he/she chooses, provided it is of the proper size for the mooring as determined by the Mooring Master.

A revocable permit will be issued for a term not to exceed three years. Renewal of the permit at the end of term will be subject to the terms and conditions of these regulations.

Applications for issuance of a revocable permit shall be made to the Mooring Master and shall contain the following information:

1. Name and address of the registered vessel owner
2. Size, color, type of vessel to be moored
3. Registration number of the vessel to be moored (State registration or Documentation number)
4. Copy of vessel registration or documentation
5. Copy of certificate of insurance
6. Size, type and location of mooring requested
7. Signature of the registered vessel owner
8. Other such pertinent information as may be required by the Mooring Master.

The registered owner must provide proof of at least \$100,000 in liability insurance coverage on the vessel. The Mooring Master and the City of Long Beach must be named as additional insured on the liability insurance policy name.

Mooring permit applicants and permittees must notify the Mooring Masters office of any changes to the information provided on the application.

Joint permittees are not allowed. Each available revocable mooring permit shall only be issued to an individual. Transference of revocable permits is not allowed. Should the vessel

be sold, the revocable permit assigned to the original vessel owner shall revert to the Mooring Master for re-assignment. The fees paid for this mooring permit will be returned to the permittee on a prorated basis based on the remaining duration of the permit term. Should the permittee purchase another vessel that would be suitable for this mooring within 30 days, he shall have priority for re-assignment of this mooring.

No mooring shall be authorized as an eligible location for a live-aboard location. Use of a mooring for a live-aboard location is grounds for revocation of the mooring permit. The Mooring Master may require the revocable permit owner to provide proof of residence.

Failure to pay required fees when due shall be a forfeiture of the permittee's mooring permit.

Mooring permits may be revoked for:

1. Use of mooring facilities in violation of City Ordinances, Mooring Regulations or other applicable laws;
2. Violation of conditions of any mooring permit;
3. Failure or refusal of the revocable permit owner to consent to dye testing of a vessel's marine sanitation facilities pursuant to these regulations; and
4. Violation of Water Quality Regulations.

The mooring permit shall provide that such permit shall be revocable for such violations (excluding nonpayment of permit fees) at any time by the Mooring Master upon giving five (5) days' written notice to the permittee. Upon such permit being revoked, the right to re-assign the permit reverts to the Mooring Master.

PERMIT ISSUANCE

If the Mooring Master finds that the application conforms to the requirements of this regulation, he shall, upon payment by the applicant of the required mooring fee, issue the mooring permit confirming the location for said mooring.

If the requested location is unavailable, a permit for a location shall be assigned by the Mooring Master as near to the desired location as is feasible.

The Mooring Master shall not, however, issue a permit to any person who has not paid their current vessel state registration fee.

Upon the issuance by the Mooring Master, a revocable mooring permit shall be valid only for the period specified in the permit as issued.

MOORING WAITING LIST

Mooring Master shall maintain a waiting list of applicants who desire to obtain a revocable mooring permit. Persons may be added to the waiting list by completing a shore mooring permit application and paying a \$50.00 administration fee. The list and position of each applicant shall be updated by the Mooring Master twice a year, and posted at the Mooring Master's office. An applicant who wishes to maintain their priority position on the waiting list must reapply each year, on or before the first day of February.

PERMIT PRIORITY

City revocable mooring permits are valid for a period not to exceed three years. New revocable mooring permits will be issued annually based on priority and availability of moorings for assignment. Any person who was a permittee during the preceding year has priority for a revocable mooring permit at the same mooring location provided that the permittee's vessel to be moored is the same size as the previous term and the permittee has met all requirements of this regulation.

If a permittee in the previous year requests a mooring change, that permittee will have priority over persons on the waiting list who were not permittees in the previous year. If two or more permittees in the previous year request a mooring change, priority will be based on which permittee has been a continuous permittee for a longer period of consecutive years. If all things are otherwise equal between or among applicants, priority shall be on a first-come first-served basis.

Moorings will be assigned to the highest priority on the wait list as they become available after existing permittee assignments are made.

GENERAL REGULATIONS - MOORING USAGEConditions of use

No vessel shall be placed at a mooring classified and/or equipped for a smaller vessel without the written consent of the Mooring Master.

Maximum duration for any vessel to occupy any mooring shall not exceed 10 (ten) days. After 10 days the vessel must be removed and cannot occupy a mooring again for a period of at least 10 (ten) calendar days. Further, no single vessel may occupy any mooring for more than 156 (one hundred fifty six) days in any calendar year.

Mooring Master will work with the Marine Bureau to ensure that a vessel is not moving from guest tie in the marina to mooring, effectively staying in the Long Beach area permanently with no permanent slip.

Except in an emergency, no person shall moor any vessel on a City Mooring without the prior permission of the Mooring Master and payment of the required mooring fees.

All generators shall be secured and shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. The foregoing restrictions shall not apply in cases of medical emergency.

No more than two vessels will be allowed to occupy any single mooring at any time. Vessels are allowed to side-tie while on a mooring with authorization of the Mooring Master. Each vessel will be subject to the fees as if on the mooring independently. Each individual vessel shall not exceed the allowable length for the specific mooring. Should weather conditions warrant, the Mooring Master may order one vessel to vacate the mooring to avoid

overloading the mooring equipment. Each vessel shall be subject to all terms and conditions of these regulations.

No vessel that is not seaworthy shall occupy a mooring. The vessel owner of a temporarily disabled vessel must obtain Mooring Master's authorization to moor if the repair will take more than four hours.

If a vessel is abandoned or left unattended after the permitted period, the Mooring Master may have the vessel removed by the City Marine Safety Patrol or other authorized agency. The vessel will then be subject to the City Marine Bureau regulations and applicable state law. All expenses incurred will be the responsibility of the vessel owner.

Whenever any guest vessel secures to a mooring, with or without the permission of the Mooring Master, and thereafter does damage to such mooring or any other mooring in Long Beach Mooring, or if any vessel does damage to any mooring in Long Beach Mooring, the owner and/or operator of such vessel shall be liable for the cost of the repairs to such mooring so damaged. The amount of such cost of repairs, together with reasonable attorney's fees, may be recovered by the Mooring Master in any court of competent jurisdiction in the State.

SCHEDULE OF FEES

The owner of a vessel shall pay to the Mooring Master for the use of Long Beach Mooring and its facilities and services, a permit fee of an amount approved by the City Manager or his designee. The permit fee will cover the mooring and at-boat pumpout service. Other services will be available, including shoreboat service, at-boat trash removal, and use of landside shower facilities, at an additional cost.

WATER QUALITY REGULATIONS

(a) It shall be unlawful for any person to throw, discharge, deposit, or leave, or cause, suffer, or procure to be thrown, discharged, deposited, or left either from or out of any vessel or holding tank, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any description into the navigable waters of the City.

(b) It shall be unlawful for any person to discharge, or cause, suffer, or procure to be discharged or deposited, material of any kind in any place or on any banks of any navigable waters in the City where such discharged material shall be liable to be washed into the waters of the City either by ordinary or high tides, or by storms, floods, or otherwise.

(c) It shall be unlawful for any person to throw, place, or leave any dead animal or putrefying matter into the waters of the City or along the shore thereof.

(d) It shall be unlawful for any person to deposit, place throw or in any manner dispose of any cans, receptacles, bottles, papers, food, animal or vegetable matter, rubbish, trash, garbage, or any decaying or putrid matter, material, or substance which might decay, or which might become injurious to health or which might become a nuisance or offensive to

the senses of any person coming in proximity thereto into the waters of the Pacific Ocean, waterfront of Long Beach or upon the beaches of the City, or any portion thereof.

(e) It shall be unlawful for any person owning, managing, controlling, operating, navigating or otherwise handling any boat, vessel, or ship to discharge, or cause to be discharged, any ballast water, bilge water or waste water continuing or contaminated with any crude petroleum, refined petroleum, engine oil, or oily byproduct within the waters of the City unless such ballast water, bilge water or waste water is discharged into suitable and adequate settling basins, tanks or other receptacles.

(f) It shall be unlawful for any person to throw, place, bury, or deposit upon any public or private beach in the City any glass, glassware, crockery, or any bottle, cup, container, plate, or other vessel made of glass, glassware, or crockery, or any other material or substance which would cause, or might reasonably be presumed to cause, injury to patrons of such beaches. None of such materials shall be left on the beach by any person, but the same shall be deposited in receptacles provided by the City for the deposit thereof or shall otherwise be removed from the beach by the owner of such materials.

(g) The unauthorized dumping of any kind of material into the waterway, or the throwing overboard, or setting adrift, or permitting to set adrift of anything that is, or might become, obstructive or dangerous to navigation is hereby expressly prohibited.

(h) In order to enforce the provisions of this section and to safeguard and protect City waters from contamination, the owner and/or other person in charge of any boat or vessel occupying a City mooring shall, as a condition of use of the mooring, allow the Mooring Master to board the vessel and place dye tablets into the vessel's marine sanitary device, and to perform a test or tests to ensure that the marine sanitary device is in such a condition as to prevent any contaminants from being discharged into City waters. It shall be unlawful for any person to deny Mooring Master personnel access to a vessel for purposes of placing dye tablets in the marine sanitary device, to refuse or interfere with testing of the marine sanitary device by Mooring Master, to tamper with or remove while in City waters any dye tablet placed in a marine sanitary device by Mooring Master, or to place any substance in the marine sanitary device with the intent to interfere with the enforcement of this section. Violation of the provisions of this subsection shall result in revocation of permission to access the moorings. In addition to the penalties prescribed herein and in subsection (i), the Mooring Master shall have the authority to order any owner or person in charge of any boat or vessel upon which any act or omission specified herein has occurred, to immediately remove such vessel from City moorings.

(i) In the event that the Mooring Master observes or receives information that any vessel is discharging into City waters any liquid or solid material in violation of these Water Quality Rules, the Mooring Master shall issue an order barring the vessel and the person owning and/or in possession of the vessel from privilege of use of City moorings on the subject vessel and any other vessel under the person's ownership or control. The order shall be for a period of two (2) years, effective immediately. The order shall be made in writing and delivered personally to the subject vessel owner and/or person in apparent control unless actions of the owner or person in control make such delivery impractical or infeasible.

Where personal delivery cannot be made, a copy of the order shall be sent by first class mail, postage prepaid, to the address of the person to whom the vessel is registered.

GENERAL RELEASE

As consideration for being granted a revocable mooring permit, the permittee agrees to hold the Mooring Master, the Concessionaire, the Marine Bureau and the City of Long Beach harmless from all liability or damage and grants access to the permittee or the permittee's property occupying a mooring area.

ACTUAL OR CONSTRUCTIVE NOTICE OF A MOORING MASTER ORDER

Notice of a Mooring Master's Order to a permittee shall be issued in writing. Notice may be actual or constructive. Actual notice shall be notice issued to the person or by certified mail. Certified mail notice shall be sent to the person's address of record. Constructive notice shall be notice posted on the person's property located within the covered boundaries. Actual notice is presumed received immediately if issued in-person or within 72-hours of mailing if issued by certified mail. Constructive Notice is presumed received seven days after posting.

Any action requiring notice may be taken without notice if, in the determination of the Mooring Master, the notice is impossible or impractical or an emergency condition exists that requires immediate action. Action taken under this Section may be taken immediately.

The Mooring Master shall maintain a notice log recording all issued notice. The information recorded in the notice log shall include whether the notice was actual or constructive, the name of person to whom the notice was issued if applicable, and the date and time the notice was issued.