

RESOLUTION NO. HC2026-01

A RESOLUTION OF THE HARBOR COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THAT CITY COUNCIL AMEND SECTIONS 10.06.010, 11.20.050, 17.05.140, 17.10.020, 17.25.020, 17.45.030, 17.70.015 OF THE NEWPORT BEACH MUNICIPAL CODE TO PROVIDE FOR ADDITIONAL REGULATION OF CERTAIN ACTIVITY WITHIN NEWPORT HARBOR

WHEREAS, the 1978 Beacon Bay Bill, as amended, (“Beacon Bay Bill”) authorizes the City of Newport Beach (“City”) to act on behalf of the state of California as trustee of certain tidelands located within the City’s limits, including Newport Harbor (“City Tidelands”);

WHEREAS, the City has adopted rules and regulations for Newport Harbor, which are contained in Title 17 (Harbor Code) (“Title 17”) of the Newport Beach Municipal Code (“NBMC”);

WHEREAS, the current objectives established by the Harbor Commission include conducting an annual review of Title 17 and recommending updates to City Council where necessary;

WHEREAS, amendments to Title 10 (Offenses and Nuisances) and Title 11 (Recreational Activities) will permit Harbor Department staff to enforce provisions of the NBMC outside of Title 17 that are applicable to Newport Harbor; and

WHEREAS, the Harbor Commission recommends amendments Title 17, and relevant harbor-related sections of the NBMC, to provide for additional regulation of certain activity within Newport Harbor and to clarify existing provisions.

NOW, THEREFORE, the Harbor Commission of the City of Newport Beach resolves as follows:

Section 1: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Section 10.06.010 (Human Waste) of the NBMC to read as follows:

No person shall urinate or defecate on private property in an area exposed to the public view, or on any public street, sidewalk, alley, park, beach, Newport Harbor or other public place except in a public or private restroom.

Section 2: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Section 11.20.050 (Cleaning of Fish or Mussel) of the NBMC to read as follows:

No person shall place, cut or clean any fish, mussel, bait or other marine animal upon any bench or seat placed upon any ocean pier, public dock or upon the floor or railings of such piers or docks.

Section 3: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Subsection (B) of Section 17.05.140 (Public Hearings) of the NBMC to read as follows:

B. Notice of Public Hearing.

2. Method of Notice Distribution. Notice of a public hearing required by this title shall be given as specified below.

a. Mailing. Notice shall be mailed or delivered at least ten (10) calendar days before the scheduled hearing to all the following:

i. Project Site Owners, Applicant and Appellant. The owners of the property being considered in the application, or the owners' agent, the applicant or the applicant's agent, and the appellant, if any;

ii. Nearby Property Owners. All owners of real property located within a three hundred (300) foot radius of the exterior boundaries of the location of the subject matter of the application, as shown on the last equalized assessment roll. It shall be the responsibility of the applicant to obtain and provide to the review authority a list of the names and addresses of all owners who are to be provided notice under this subsection; and

iii. Persons Requesting Notice. A person who has made a written request for notice with the City Clerk.

Section 4: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Section 17.10.020 (Permit for Commercial Activities in Newport Harbor Required) to read as follows:

A. No person shall engage in any commercial activity including, but not limited to, advertising, brokering, scheduling, arranging, providing, operating or renting any bareboat or certified charter, vessel or equipment, on the waters of Newport Harbor without first obtaining a valid marine activities permit pursuant to this chapter.

B. Any person or entity engaging in commercial activity that advertises, lists, or offers a vessel for rent or charter in the City, including on any charter and boat rental hosting platforms, or social media platform, shall prominently display the valid City issued marine

activities permit number within the body of every such advertisement, marketing materials, or listing.

C. The Harbor Master shall have the authority to issue and serve administrative subpoenas to the permit holder, agent, charter and boat rental hosting platforms, social media platform, or any person or entity facilitating vessel charters and rentals, as necessary, to obtain specific information regarding charter listings located in the City, including but not limited to the names of the persons responsible for each such listing, the address of each such listing, the length of rental for each such listing and the price paid for each listing, to determine whether the listing complies with this chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than thirty (30) days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that thirty (30) day period. Failure to respond to an administrative subpoena in accordance with the terms set forth therein shall be punishable and the City may file a judicial action to compel compliance with the subpoena.

Section 5: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Subsections (H) and (L) of Section 17.25.020 (Anchorage, Berthing, and Mooring Regulations) of the NBMC to read as follows:

H. Mooring, Anchoring and Vessel Condition Requirements.

3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel in Newport Harbor shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

m. If equipped with a portable or permanently installed marine sanitation system, allowing said device not to be connected directly to an internal holding tank at all times while in the Newport Harbor.

n. For any vessel on which a person may stay aboard overnight pursuant to a mooring permit, mooring sub-permit, mooring license, or in one of the public anchorages, the absence of an operable portable marine sanitation device or a permanently installed marine sanitation system.

o. The use of improvised waste containment methods for human or animal excreta.

Section 6: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Subsection (A) of Section 17.45.030 (Waste and Refuse) of the NBMC to read as follows:

A. Discharge of Treated or Untreated Human or Animal Excreta. No person shall discharge, permit or allow any other person on a vessel under his or her control or command to discharge any treated or untreated human or animal excreta from any marine sanitation device or by other means into the waters of Newport Harbor or the Pacific Ocean. The provisions of this section do not apply to the cleaning of vessels for the purpose of removing accumulated animal excreta from non-domesticated animals, including sea lions and migratory waterfowl. In accordance with California Harbors and Navigation Code Section 782 or any successor statute, any vessel in the waters of Newport Harbor or on the waters of the Pacific Ocean within the jurisdiction of the City, with a marine sanitation device, is subject, at any time, to boarding by the Harbormaster to inspect the operation and condition of the same and shall be subject to the use of a dye tablet to determine whether or not the marine sanitation system is discharging overboard. Violations are subject to all available remedies, including immediate removal from Newport Harbor.

Section 7: The Harbor Commission of the City of Newport Beach hereby recommends the City Council amend Subsection (B) of Section 17.70.015 (Suspension of Marine Activities Permit) to read as follows:

B. Procedure for Suspension. Permits shall be suspended in the manner provided herein.

1. The Harbormaster or designee shall investigate whenever he or she has reason to believe that a marine activities permit holder has submitted an application that contains false information or committed a violation of a permit condition, this Code, or State or Federal law related to a marine activities permit. Such investigation may include, but is not limited to, on-site or vessel inspections. Should the investigation reveal substantial evidence to support a finding that warrants a suspension of the marine activities permit, the Harbormaster shall issue a written notice suspending the permit. The written notice shall be served on the owner in accordance with Section 1.05.030. The notice shall specify the facts which, in the opinion of the Harbormaster, constitute substantial evidence to establish grounds for imposition of the suspension, and specify the proposed time the marine activities shall be suspended. For suspensions lasting longer than three (3) days, the permittee may request an appeal hearing within thirty (30) days of receiving written notice of the suspension. If appealed, the Harbormaster shall notify the permittee of the date, time and place of the hearing. At least fourteen (14) days' notice of such hearing shall be given in accordance with Section 1.05.030 to the permittee shown on such permit, setting out the date, time and place of hearing.

Section 8: The Recitals provided above are true and correct and are incorporated into the substantive portion of this resolution.

Section 9: The City Harbor Commission finds that the adoption of this resolution is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 156060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 10: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Harbor Commission hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 11: This action shall become final and effective 14 days following the date of adoption of this Resolution unless within such time an appeal or call for review is made in accordance with the provisions of NBMC Chapter 17.65 (Appeals or Calls for Review).

PASSED, APPROVED, AND ADOPTED THIS 8TH DAY OF APRIL, 2026.

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

BY: _____
Ira Beer, Chair

BY: _____
Steve Scully, Secretary