

# **Attachment A**

Ordinance No. 2024-15

**ORDINANCE NO. 2024-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTIONS 17.60.010, 17.60.020, 17.60.040, AND 17.60.045 OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO MOORING PERMITS AND LICENSES**

**WHEREAS**, Section 200 of the Charter of the City of Newport Beach (“Charter”) vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, pursuant to the 1978 Beacon Bay Bill, as amended, (“Beacon Bay Bill”) the City of Newport Beach (“City”) acts on behalf of the State of California as the trustee of tidelands located within the City’s limits, including Newport Harbor;

**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**, members of the public may moor their vessels in Newport Harbor by obtaining a mooring license, mooring permit, or mooring sub-permit under Sections 17.60.040 (Mooring Permits) and 17.60.045 (Short-Term Mooring Licenses) of the NBMC;

**WHEREAS**, additional revisions to Sections 17.60.040 (Mooring Permits) and 17.60.045 (Short-Term Mooring Licenses) of the NBMC are desired to update the process for authorizing the mooring of vessels in Newport Harbor, in furtherance of complying with the Beacon Bay Bill; and

**WHEREAS**, the City shall file a copy of this ordinance with the California Department of Boating and Waterways prior to its adoption and at least thirty (30) days prior to its effective date, as required by California Harbor and Navigations Code Section 660(a).

**NOW THEREFORE**, the City Council of the City of Newport Beach ordains as follows:

**Section 1:** The City Council hereby approves the amendments to Sections 17.60.010, 17.60.020, 17.60.040, and 17.60.045 of the NBMC, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

**Section 2:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 3:** If any section, subsection, sentence, clause or phrase of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance 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 4:** The City Council finds the introduction and adoption of this ordinance 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 15060(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. Alternatively, the City Council finds regulations of mooring permits and licenses located upon tidelands is entitled to a Class 1 Categorical Exemption pursuant to CEQA Regulation Section 15301 and Class 2 Categorical Exemption pursuant to CEQA Regulation Sections 15302. This ordinance is exempt under Section 15301 because the mooring permits and licenses contemplates the continued use of existing facilities, with no expansion of the proposed use. Section 15302 exempts projects that involve the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. It has been alleged that the conversion of the permit to a license will trigger additional environmental review because it will require removal of a permittee’s chains, mooring balls, weights, and other associated hardware and reinstallation of the equipment by the City. However, mooring equipment requires intermittent replacement that would occur regardless of whether the ordinance is adopted. Nothing in the ordinance specifies a wholesale replacement of a permittee’s equipment with the City’s equipment at the time of conversion from a permit to a license. The Harbormaster is left with the discretion to replace the permittee’s equipment with the City’s equipment at an interval that coincides with the equipment’s normal replacement interval. Since the mooring equipment requires intermittent replacement and the replacement of that equipment would occur on the same site and serve the same purpose, this ordinance is exempt under Section 15302. Lastly, the City Council finds regulations of mooring permits and licenses for moorings located upon tidelands is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

**Section 5:** Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

**Section 6:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 9<sup>th</sup> day of July, 2024, and adopted on the 23<sup>rd</sup> day of July, 2024, by the following vote, to-wit:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
WILL O'NEILL, MAYOR

**ATTEST:**

\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY

Attachment(s): Exhibit A – Amendments to Chapter 17.60 of the NBMC

## **Exhibit "A"**

- I. The Table of Contents for Chapter 17.60 (Harbor Permits and Licenses) of the Newport Beach Municipal Code is hereby amended to read as follows:**

### **Chapter 17.60 HARBOR PERMITS AND LEASES**

#### **Sections:**

- 17.60.010 Public Trust Lands—General.**
- 17.60.015 Application for Harbormaster Permits.**
- 17.60.020 Application for Pier/Mooring Permits and Licenses or the Lease of Public Trust Lands.**
- 17.60.030 Pier Permits for Noncommercial Piers.**
- 17.60.040 Mooring Permits.**
- 17.60.045 Short-Term Mooring Licenses.**
- 17.60.050 Houseboats.**
- 17.60.060 Public Trust Lands.**

- II. Section 17.60.010(A) (Public Trust Lands—General) of the Newport Beach Municipal Code is hereby amended to read as follows:**

#### **17.60.010 Public Trust Lands—General.**

A. Applicability. Public trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the public trust at any time. The City manages these lands through a series of permits, licenses, franchises and leases. This chapter applies to permits or leases for public trust lands used for commercial purposes by a person, other than the City, pier permits for noncommercial piers, and mooring permits or licenses.

- III. The title and content of Section 17.60.020 (Application for Pier/Mooring Permits or the Lease of Public Trust Lands) of the Newport Beach Municipal Code is hereby amended to read as follows:**

#### **17.60.020 Application for Pier/Mooring Permits, Licenses or the Lease of Public Trust Lands.**

A. Required Forms. Except for permits to be filed with the Harbormaster, applications for permits, licenses, or leases which pertain to Newport Harbor under the provisions of this chapter shall be filed in the Public Works Department, in writing, on forms prescribed by the Public Works Director.

B. Required Materials. Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Public Works Director. The Public Works Director may request additional materials deemed necessary to support the application.

C. Required Signatures. Applications for permits, licenses, or leases issued by the Public Works Director may be made by the owner, lessee, or agent of the owner of the property affected. The application shall be signed by the owner of record or may be signed by the lessee or by an authorized agent if written authorization from the owner of record is filed concurrently with the application.

D. Fees. Applications and renewals shall be accompanied by a fee as established by resolution of the City Council.

E. Tidelands Users. Users of public tidelands, including commercial and noncommercial users, shall be subject to rental or lease charges reflective of the fair market value related to such use as established by the City Council with the assistance of an appraisal. (Ord. 2020-5 § 1 (Exh. 1) (part), 2020: Ord. 2018-17 §§ 54, 55, 2018; Ord. 2013-1 § 8, 2013; Ord. 2008-2 § 1 (part), 2008)

**IV. Section 17.60.040 (Mooring Permits) of the Newport Beach Municipal Code is hereby amended to read as follows:**

**17.60.040 Mooring Permits.**

A. Permit Required. No person shall place, erect, construct, maintain, use or tie to a mooring in the waters of Newport Harbor over City-owned or controlled tidelands (i.e., an offshore mooring) or in the nearshore perimeter of Newport Harbor perpendicular to the shoreline (i.e., an onshore mooring) without first having obtained a mooring permit from the Harbormaster or having otherwise complied with this section. A mooring permit or license pursuant to Section 17.60.045 is in the nature of license for the temporary use of a specific location within Newport Harbor. As of August 22, 2024, the City will no longer issue new mooring permits, other than sub-permits, but shall instead process and approve mooring license applications pursuant to Section 17.60.045.

B. Issuance of Permit—Conditions. The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit or mooring sub-permit to allow the mooring permittee or mooring sub-permittee to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel if the Harbormaster makes the findings set forth in Section 17.05.140(D)(1). A mooring permittee may hold up to two mooring permits at any time. A mooring permittee that held or continues to hold more than two

mooring permits prior to May 11, 2017, may continue to hold the mooring permits until the permits are sold, revoked, or otherwise transferred under this chapter.

1. Exceptions.

a. The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, as noted in subsection (B)(3)(g) of this section. In addition, the Lido Isle Community Association ("LICA") has permits for onshore moorings on Lido Isle. These organizations shall hold their respective permits under the yacht club, or respective organization name, for the moorings identified by the City as under their respective control at the time of enactment of the ordinance codified in this section. The yacht clubs and LICA shall be solely responsible for managing moorings under their control and shall be permitted to assign moorings under their control to yacht club members and members of LICA, respectively. The yacht clubs and LICA shall keep accurate records of the name and address of the club members and community association members to which each mooring has been assigned and the corresponding length of each vessel. The yacht clubs and LICA may not sell or otherwise transfer the moorings under their control to a third party that is not a member of the yacht club or LICA. Mooring records and 24/7 emergency contact information shall be provided annually to the Harbormaster by the yacht clubs and LICA on or before February 1st.

b. Mooring of a Tender. A single vessel no longer than fourteen (14) feet in overall length to serve as access to and from the assigned vessel may be secured to the assigned vessel or may be secured to the offshore mooring in the absence of the assigned vessel. The vessel must be secured in such a manner so as not to intrude into the fairway or obstruct neighboring permittees. Notwithstanding the single vessel restriction, permitted live-aboards may secure up to two vessels no longer than fourteen (14) feet in overall length to the assigned vessel, to serve as access to and from the assigned live-aboard vessel.

c. Multiple Vessel Mooring System Program. The Harbormaster may approve a multiple vessel mooring system in the single anchor mooring areas of Newport Harbor. An application and applicable fee, established by resolution of the City Council, for a multiple vessel mooring system shall be submitted in writing to the Harbormaster, who shall evaluate the application based upon standards established and the application shall be approved if the Harbormaster makes the findings under the applicable standards and those set forth in Section 17.05.140(D)(1).

2. Permit Requirements. Prior to August 22, 2024, the City issued a mooring permit to a maximum of two (2) persons ("mooring permittee(s)") who shall be individually and collectively responsible for all activities related to the mooring permit. The mooring permit shall specify the assigned mooring location, the mooring length, and assigned vessel information. Mooring permittee(s) are subject to and shall fully comply with the following conditions:



- a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current email address(es), if one exists, of the mooring permittee(s);
- b. Agree to be responsible for permit rent, fees, maintenance and repair of mooring equipment;
- c. The permit for joint ownership moorings shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the mooring permit;
- d. Grant permission to the City to temporarily assign the mooring to another vessel when it is unoccupied through the issuance of a mooring sub-permit;
- e. Agree to defend and indemnify the City and any other government entity with jurisdiction against any claims or losses arising out of, or related to the use of, the mooring permit except where the claim or loss arises from the sub-permittee's damage of the mooring, or out of the negligence and/or misconduct of a person assigned the mooring as a mooring sub-permittee under subsections (G) and/or (H) of this section;
- f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;
- g. Provide registration or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster;
- h. Agree to pay fair market value rent, as established by resolution of the City Council, on a rent schedule established by the Harbormaster, which shall be similar to the schedule used to collect rent from other tidelands users in Newport Harbor;
- i. Agree that the mooring permit does not provide any ownership interest in the underlying tidelands, which are held in trust by the City and owned by the people of the State of California;
- j. Agree to move the vessel from the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster because the vessel has drifted from its assigned mooring location or to address safety or navigational concerns, and also to authorize the City or its designee to move the vessel upon the mooring permittee's failure to do so, at the permittee's expense;
- k. Agree to allow the Harbormaster, or designee, to board the permittee's vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether said devices are discharging overboard in accordance with applicable laws; and
- l. Agree that if the permittee's maximum mooring length is shorter than the established length of its mooring row by five feet or more then the permittee is subject to relocation

within the same mooring field for the purpose of accommodating mooring extension requests. The H and J fields shall be considered as one field for the purpose of relocations. The costs of relocation, including the moving of mooring equipment, shall be borne by the mooring permittee who requested the mooring length extension.

Example: Permittee A has a mooring length of thirty-five (35) feet, a vessel LOA of thirty (30) feet, and is in a thirty-five (35) foot row. Permittee B has a mooring length of thirty (30) feet, a vessel LOA of thirty (30) feet, and is in a thirty-five (35) foot row. Permittee C has a mooring length of thirty-six (36) feet, a vessel LOA of thirty (30) feet, and is in a forty (40) foot row. Only Permittee B is subject to relocation.

3. Permittee/Transferee Qualifications. A mooring permit may be held only by natural persons unless the mooring permit is transferable, in which case it may be held by, or transferred once no later than August 21, 2028, to, only the following:

a. A natural person(s) including, but not limited to, an immediate family member, which shall mean the mooring permittee's spouse and heirs at law to the second degree of consanguinity;

b. An executor or administrator carrying out the terms of a will or administering a probated estate that holds a mooring permit, but only for one (1) year following the death of the permittee;

c. An inter vivos trust, family trust, or other similar type of trust estate holding a mooring permit, so long as all trustors are natural persons and the primary mooring permittee shall be the trustee of the trust;

d. A marine contractor, or marine support service provider, holding a mooring permit used to provide current or ongoing harbor infrastructure and marine or fishing services (such as maintenance or dredging);

e. Balboa Island Yacht Club for the purposes of youth education in boating and marine activities; Kerckhoff Marine Laboratories for the purpose of marine and oceanographic research; and American Legion Post 291 for the purpose of serving veterans and their families and supplying them with affordable access to boating and harbor activities; or similar marine educational entities; or

f. The Balboa Yacht Club, Newport Harbor Yacht Club (collectively "yacht clubs") and the Lido Isle Community Association—only for those moorings assigned by the City within certain established mooring areas or locations, prior to January 13, 2011. These designated mooring areas may not be expanded. The boundaries of all mooring areas in Newport Harbor are graphically depicted by National Oceanographic and Atmospheric Administration (NOAA) Chart Number 18754. Yacht clubs shall be entitled to a maximum number of moorings identified in NOAA Chart Number 18754 that are located within the yacht club's established mooring fields and at a minimum the current number of moorings assigned to them as of January 13, 2011.C. Plans and

Specifications Required. No mooring permit shall be issued for placing, erecting, constructing or maintaining a mooring or buoy unless such mooring or buoy is constructed:

1. In accordance with standard plans and specifications approved by the Harbormaster and at a location approved by the Harbormaster; or
2. In accordance with other plans and specifications for such mooring or buoy which have been submitted by the applicant, showing the construction of such proposed mooring or buoy together with the location thereof, and which meet the requirements established in this chapter and which have been approved by the Harbormaster.

D. Late Fees. A late charge shall be added to all payments due but not received by the City by the due date in accordance with Section 17.05.120.

E. Transfer of Permit. Mooring permits are nontransferable, with the exception of mooring permits that were issued prior to August 22, 2024, which existing mooring permittees as of August 22, 2024, may transfer once, provided the transfer is completed no later than August 21, 2028.

F. Procedures for Transfers. Permits shall not be transferred without the prior written approval of the Harbormaster. The Harbormaster may approve the transfer of a mooring permit subject to the limitations set forth in subsection (E) under the procedures set out below:1. The mooring permittee(s) (or, if the permittee is deceased or incapacitated, the transferee) shall submit to the Harbormaster:

- a. A completed mooring transfer form (on the form provided by the Harbormaster); and
- b. Documentation that the proposed new mooring permittee (transferee) qualifies as a mooring permittee under subsection (B)(3) of this section.

2. If transferee intends to purchase an assigned vessel but does not have title on the assigned vessel owned by the mooring permittee and transferor at the time of transfer, then:

- a. Within sixty (60) days of a transfer, transferee shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the assigned vessel or, in the case of an onshore mooring, a photograph of the assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or

b. If such documentation is not received by the Harbormaster within the sixty (60) day period, then the vessel or the mooring may be impounded, and the mooring may be deemed vacant and assigned pursuant to subsections (G) and (H) of this section.

3. If transferee intends to moor a vessel other than the assigned vessel and does not have title to the vessel that will be moored at the time of transfer, then:

a. Within sixty (60) days of an approved transfer, the transferee shall notify the Harbormaster that the assigned vessel has been removed from the mooring and before a new vessel may be placed on the mooring shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the new assigned vessel, or in the case of an onshore mooring, a photograph of the new assigned vessel if it is not subject to vessel registration laws. The Harbormaster shall inspect the vessel at its office for compliance with Section 17.25.020(H) before the assignment is approved; or

b. If the documentation is not received within sixty (60) days of a transfer, the mooring may be deemed vacant by the Harbormaster and the mooring may be assigned pursuant to subsections (G) and (H) of this section. The mooring may remain vacant until such time the permittee notifies the Harbormaster of their intent to assign their vessel to the mooring.

4. The transfer request shall be denied unless mooring permit rent, including late payment fees, is paid current; required mooring inspections are current; registration or documentation and insurance are provided; required maintenance and repairs are complete and there are no derelict or unauthorized vessel(s) on the mooring; and the vessel is of appropriate length with the appropriate weights and chains.

5. The mooring permittee and transferee shall provide a written agreement to defend and indemnify the City of Newport Beach in any dispute with a third party over transferee's right to be the mooring permittee or in any dispute with a third party over the mooring permittee's right to transfer the permit.

6. The transferee shall provide written confirmation agreeing that no later than September 1, 2032, the mooring permit will convert to a mooring license and comply with the requirements set forth in Section 17.60.045 and pay the rental rates established by resolution of the City Council for mooring licenses.

7. Transfer Approval. Upon confirmation of compliance with all provisions of this subsection, the Harbormaster must find all of the following conditions to approve the transfer of a mooring permit:

a. The mooring permittee no longer owns the assigned vessel or has retained ownership of the assigned vessel and has permanently vacated the mooring;

b. The transferee has met all the qualifications and conditions for issuance of a permit in subsection (B) of this section;

c. The transferor or transferee has reported to the Harbormaster the price paid for the mooring permit, and has paid to the City the required transfer fee; and

d. The transferor represents that the person did not discriminate against any transferee or prospective transferee because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

8. The Harbormaster may approve a one-for-one exchange of moorings between two mooring permittees, subject to compliance with this subsection without any transfer fee imposed by the City or the conversion of a permit to a license.

9. The Harbormaster may approve the changing of an assigned vessel on the permit, subject to the requirements of subsection (B) of this section, without any transfer fee imposed by the City or the conversion of a permit to a license.

10. Following an approved transfer, the Harbormaster shall list the transfer price of the mooring permit on a publicly available website hosted by the City, or on a third party's website under contract with the City to host information regarding mooring permit transfers.

11. Except as provided in subsections (F)(8) and (F)(9), on September 1, 2032, the Harbormaster will convert all mooring permits transferred between August 22, 2024, and August 21, 2028, to a mooring license subject to the provisions of Section 17.60.045.

G. City's Authority to Assign Moorings through Use of Sub-Permits. With the exception of the Balboa Yacht Club, the Newport Harbor Yacht Club, and the Lido Isle Community Association's designated moorings, mooring permittee may not rent, assign, or transfer the use of the mooring to any other person. With the exception of moorings issued to mooring permittees described in subsection (B)(3)(g) of this section, the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:

1. Deemed Vacant Moorings. The Harbormaster may assign deemed vacant moorings through the issuance of sub-permits at his or her own discretion. Sub-permits may be renewed upon availability. The mooring permittee may reclaim its mooring upon three days' prior written notice to the Harbormaster of its intent to return the assigned vessel to the mooring. A "deemed vacant mooring" shall be defined as a mooring upon which:

a. An assigned vessel has not been attached for thirty (30) consecutive days or more; or

b. A vessel, other than an assigned vessel or approved sub-permittee vessel approved in accordance with subsection (H) of this section, has been attached for thirty (30) days or more; or

c. Required documentation for an assigned vessel has not been provided for a transfer request pursuant to subsection (F) of this section.

2. Noticed Vacant Moorings. The Harbormaster may assign noticed vacant moorings through the issuance of a mooring sub-permit for any period of time, up to the reoccupation date on the mooring permittee's written notice, or the twenty-four (24) hour written notice per subsection (G)(2)(b) of this section. If the mooring continues to be vacant for thirty (30) days past the reoccupation date indicated on mooring permittee's notice, and there is no further written notice from mooring permittee, the mooring shall become a deemed vacant mooring.

a. Mooring permittee may provide written notice to the Harbormaster of its intent to vacate its mooring for fifteen (15) days or more. These moorings shall be "noticed vacant moorings." Written notice shall include the date the mooring permittee intends to vacate his/her mooring, and the date he/she intends to reoccupy the mooring with the assigned vessel.

b. If a mooring permittee provides written notice, the mooring permittee may reclaim the assigned mooring on the reoccupation date indicated in his/her written notice or, if the mooring permittee returns prior to or after the reoccupation date, upon twenty-four (24) hours' written notice to the Harbormaster.

H. Procedures for Mooring Sub-Permit Issuance. Issuance of a mooring sub-permit shall be subject to the following conditions:

1. Provision of a written representation of the mooring sub-permittee's vessel length which shall be satisfactory to the Harbormaster;

2. The mooring sub-permittee agrees to be responsible for any damage to mooring equipment; to defend and indemnify the City of Newport Beach and the mooring permittee against any claims or losses arising out of, or related to, the mooring rental; to provide proof of insurance as may be determined by the City's Risk Manager; to provide registration or other proof of ownership; to provide an equipment damage deposit, all to the satisfaction of the Harbormaster; and authorize the City to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster;

3. The repair of any damage to the mooring equipment shall be paid by the mooring sub-permittee. If the mooring is damaged by a vessel assigned by the City, or the City's agent, the City shall arrange for the repair of the mooring with a qualified vendor and provide notice to the permittee of the occurrence and the arranged repair date. Should the sub-permittee fail to pay for the damage for any reason, the City will pay for the

required repairs to the mooring, and then seek reimbursement from the sub-permittee. Also, the City shall make available a mooring without charge for the returning vessel of the mooring permittee until such time as their permitted mooring is repaired;

- 4. The mooring sub-permittee shall provide approved mooring lines which shall be removed at the end of the rental period;
  
- 5. A mooring sub-permit may be up to fifteen (15) days and may terminate at any time for any reason, and may be renewed based on availability. Upon return of the assigned vessel to the mooring, the Harbormaster will attempt to reassign the sub-permittee to another mooring. Mooring sub-permittees have no right of renewal or substitute moorings upon return of the assigned vessel, or upon termination of a mooring sub-permit for any reason. Mooring sub-permittees accept an indefinite term at their own risk. The decision by the Harbormaster to terminate a sub-permit shall be final and nonappealable;
  
- 6. The mooring sub-permit rent will be based on a rate established by resolution of the City Council; and

7. Mooring sub-permits are offered to the public on a first-come, first-served basis. City owned and operated moorings may be reserved in advance.

I. Mooring Permit Transfer Nonrefundable Fee. The City shall charge the mooring permittee for the right to transfer a mooring permit under and subject to the limitations set forth in subsection (E) of this section in an amount equal to seventy-five (75) percent of the annual mooring rent as established by City Council resolution. This transfer fee represents a one-time nonrefundable transfer fee for the use of a mooring. A mooring permit transfer fee shall not be required if:

- 1. The transfer is from the mooring permittee to the same mooring permittee as trustor of an inter vivos trust, living trust or other similar estate planning tool; or
  
- 2. The transfer is made under subsections (F)(8) and (9) of this section.

J. Surrendered Mooring Equipment. If the mooring permittee sells, transfers, or otherwise no longer owns the assigned vessel and does not intend to apply for, or does not receive, approval to transfer the permit to another, the permittee may provide written notice to the Harbormaster of his or her intent to surrender the mooring permit; otherwise the provisions of subsection (G) of this section regarding a vacant mooring shall apply.

Once a mooring permit is surrendered, the mooring permittee shall remove the assigned vessel and/or the mooring equipment thirty (30) days after written notice of surrender of the permit, or, upon failure to remove the mooring equipment, title shall

vest in the City and the City shall compensate the mooring permittee the fair value for the mooring equipment, less rent or fees owed, as provided in subsection (L) of this section.

K. Revocation of Permit.

1. The grounds and procedure for revocation of a mooring permit are set forth in Section 17.70.020.

2. Upon revocation of the mooring permit, it shall be the duty of the mooring permittee to immediately remove the mooring equipment and any moored vessel. If not removed within thirty (30) days of revocation of the permit, the mooring equipment shall vest in the City and may be auctioned by the City to another person or may be removed by the Harbormaster and the cost of mooring equipment removal shall be paid by the mooring permittee. Any moored vessel or equipment not removed within thirty (30) days may be impounded by the City and disposed of in the manner provided by law. City-incurred costs of removal of mooring equipment or any vessel moored thereto may be charged against the permittee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel or mooring equipment.

3. During any revocation proceeding, if the mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbormaster.

L. Moorings Reverting Back to City. Moorings authorized by a mooring permit shall revert back to the City one (1) year after the death of all natural persons named as "mooring permittee(s)" as of August 21, 2024. In the event a mooring reverts back to the City for any reason, whether through abandonment, surrender, death, failure to provide documents pursuant to subsection (F) of this section, or for any other reason other than as set forth in subsection (K) of this section, the following shall apply:

1. The mooring permittee shall be entitled to recover all of the mooring permittee's mooring equipment within thirty (30) days of reversion;

2. If the mooring permittee does not recover his or her mooring equipment, the mooring permittee shall be entitled to payment from the City of the fair value of the mooring equipment as depreciated by use in an amount to be determined by the Harbormaster and as set in the City's master fee resolution, after any and all past due rent and fees, if applicable, have been satisfied; and

3. The mooring equipment may be publicly auctioned by the City, or the City's designated representative, or the mooring equipment may be used for other City purposes.

M. Request to Extend Mooring Length.



1. General. Mooring permittees shall not moor vessels that exceed their permitted maximum mooring length. If an offshore mooring permittee wishes to moor a vessel that requires an extension in mooring length, they may request an extension up to the established length of their mooring row. A request for an extension that would exceed the established length of their mooring row shall require the permittee to relocate to a larger mooring row. In no case shall mooring lengths exceed the established mooring row lengths.

2. Application.

a. Filing and Review of Request. An offshore mooring permittee shall file a written request for extension of mooring length with the Harbor Department on a form prescribed by the Harbormaster, together with the filing fee required by the City's fee schedule adopted by resolution of the City Council.

b. Application Requirements. An application for extension of mooring length shall include the following information in addition to such other information as may be required by the Harbormaster:

i. The full identification of the applicant and the vessel for which the extension of mooring length is sought, certifying that the applicant and the assigned vessel have complied with (or in the event the vessel identification is unknown, applicant will certify that such unidentified vessel prior to occupying the mooring space will comply with) all of the applicable United States Coast Guard license, inspection, and certification requirements, and certifying that the applicant has read and is otherwise familiar with all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title;

ii. Such plans and specifications as may be required by the Harbormaster for such mooring to accommodate the proposed longer vessel; and

iii. Detailed information regarding the vessel including make, model, year, LOA, beam, dimension, vessel ID, and if the vessel identification is not known at the time of making an application, the LOA and adjusted LOA (including bowsprits, swim steps, or stern-mounted dinghies) of the proposed vessel for which the applicant seeks approval. The LOA as published by the manufacturer of a particular vessel shall be used to determine the required mooring size of a particular vessel, and the size of the specification for the chains, weights, and tackle necessary to secure a vessel on a particular mooring for a permittee. Adjusted LOA shall be used to determine the maximum vessel length that can fit in any particular slip, side-tie, or mooring row.

3. Action on Extension Request. For extension requests that require relocation to a larger mooring, a mooring of appropriate size must be available within the same mooring field. The H and J fields shall be considered as one field for the purpose of relocations. As used herein, an available mooring includes one that is occupied by a permittee whose permitted maximum mooring length is shorter than the established

length of its mooring row by five feet or more. The Harbormaster may approve the extension request only after making the findings set forth in Section 17.05.140(D)(1) and making the following findings:

- a. There have been no changes in the conditions or circumstances of the existing offshore mooring permit so that there would have been grounds for denial of the original offshore mooring permit or grounds for revocation thereof at the time an application for extension of mooring length is filed;
- b. The proposed extension of mooring length will not:
  - i. Impede or obstruct the fairways or channels or prevent or obstruct the passage of other vessels between the rows;
  - ii. Impede, obstruct or prevent other mooring permittees from safely navigating in and out of adjacent moorings or moorings in other rows connected by the same fairway to the row of the permittee's vessel;
  - iii. Result in vessel(s) encroaching into the fairway or extending beyond the outer boundaries of the mooring area or row; or
  - iv. Violate the established length of the row or mooring area in which the vessel will be moored;
- c. The applicant and the assigned vessel have complied with all of the appropriate United States Coast Guard license, inspection, and certification requirements for the assigned vessel and all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this title.

Example of relocation to an available mooring. Permittee A wishes to upgrade their vessel "Atlantis" (forty (40) foot LOA), which is in a forty (40) foot row, with "Atlantis II" (forty-two (42) foot LOA). A will need to relocate to a mooring in a longer row since the mooring length cannot be extended at its current location. Permittee B's vessel "Barnacle" (forty-one (41) foot LOA) is in a forty-five (45) foot row. Permittee C's vessel "Calypso" (forty (40) foot LOA) is in forty-five (45) foot row. Permittee D's vessel "Doldrums" (forty (40) foot LOA) is in a forty-five (45) foot row. B has a permitted mooring length of forty-one (41) feet; C's permitted mooring length is forty (40) feet; and D's permitted mooring length is forty-one (41). All four moorings are in the same mooring field. C's mooring is the only available mooring to which A can relocate.

4. Conditions of Approval. If the Harbormaster approves a request for extension of mooring length, such approval shall be conditional and contingent upon the following requirements:

- a. The mooring permittee must occupy the approved mooring with their vessel within twelve (12) months following the date of approval;

b. Transferable mooring permits shall not be sold or transferred for a period of twelve (12) months following the date of occupancy of the approved mooring. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of this section; and

c. The requestor shall cover all costs associated with modifying the length of their mooring, or in the case of a relocation moving their vessel to the available mooring and moving the displaced vessel from the available mooring. The costs shall include, but not be limited to, the moving of mooring anchors and tackle and resizing of mooring tackle to meet applicable mooring standards (e.g., chain size).

5. Noncompliance with subsection (M)(4)(a) or (b) of this section shall result in rescission of the approval to extend mooring length. Within thirty (30) days of the rescission, the permittee who requested the extension shall at its sole expense return the mooring to its prior maximum length or in the case of a relocation return their vessel and the displaced vessel to their prior assigned mooring locations or other mooring locations as deemed appropriate by the Harbormaster. Violation of subsection (M)(4)(b) of this section shall be grounds for revocation of the mooring permit. (Ord. 2023-22 § 767, 2023; Ord. 2023-8 §§ 6—11, 2023; Ord. 2022-9 §§ 7, 8, 2022; Ord. 2022-4 § 2, 2022; Ord. 2020-5 § 1 (Exh. 1) (part), 2020; Ord. 2018-17 § 58, 2018; Ord. 2017-7 § 3, 2017; Ord. 2013-11 § 175, 2013; Ord. 2010-26 § 5, 2010; Ord. 2008-2 § 1 (part), 2008)

**V. Section 17.60.045 (Short-Term Mooring Licenses) of the Newport Beach Municipal Code is hereby amended to read as follows:**

**17.60.045 Short-Term Mooring Licenses.**

A. General. As of August 22, 2024, all new moorings approved by the City will be issued as a mooring license pursuant to this section.

1. If a short-term mooring license is issued pursuant to this section, a person shall have the right to use or tie to an offshore mooring or onshore mooring in the waters of Newport Harbor. A mooring license shall be nontransferable and shall not provide any ownership interest in the underlying tidelands, which are held in trust by the City and owned by the people of the State.

2. The provisions and regulations in this title pertaining to “permittees” and “permits” generally shall also be applicable to licensees and mooring licenses except when this section expressly provides otherwise, or such application would conflict with this section.

B. Term. Mooring licenses shall be valid for one month and may be renewed, provided the licensee has paid in full the license fee, any late fees and is not in violation of any provision of the license or this title.

C. License Fee—Late Fee. A licensee shall pay a license fee equivalent to the monthly fair market value rent of the mooring, as established by resolution of the City Council. Failure to pay the license fee by the due date shall be grounds for termination of the license by the Harbormaster. If the Harbormaster, in the Harbormaster's sole discretion, elects to not terminate a license for failure to pay by the due date, licensee shall pay a late fee in the amount established by resolution of the City Council. Failure of a licensee to pay the license fee and late fee within ten (10) days of the date due shall result in immediate termination of the license and the termination shall not be appealable to the Harbor Commission.

D. Eligibility Criteria.

1. Mooring licenses may be held only by natural persons. No more than two (2) persons may be listed on a mooring license.

2. A person may hold up to two (2) mooring licenses, but they cannot be for the same type of mooring (e.g., both onshore or both offshore).

3. Onshore mooring permittees shall be ineligible for onshore mooring licenses and offshore mooring permittees shall be ineligible for offshore mooring licenses except this provision shall not apply to a mooring permit that converted to a mooring license pursuant to Section 17.60.040(F)(11). Mooring permittees holding more than one (1) mooring permit shall not be eligible for any mooring license.

4. The person or persons listed on the mooring license must have at least a fifty (50) percent ownership interest in the vessel assigned to the mooring. The minimum ownership interest requirement may be satisfied by the combined interests of the two persons. For vessels that are not held in an individual capacity, such as in trust or by a limited liability company, evidence of the required minimum ownership interest shall be provided to the satisfaction of the Harbormaster.

E. Application for Mooring License. Application for a mooring license shall be filed with the Harbormaster, on forms approved by the Harbormaster, and shall include the following in addition to such other information the Harbormaster may require:

1. Applicant(s)' full legal name, current address, current telephone number and current email address;

2. Vessel registration or other proof of ownership required by the Harbormaster; and

3. Insurance, which types and amounts shall be determined by the Risk Manager.

F. Issuance of Mooring License. The Harbormaster may issue mooring licenses subject to the conditions set forth in this subsection.

1. Each person listed on a mooring license shall be individually and collectively responsible for all activities pursuant to the mooring license and compliance with all applicable rules, regulations, and conditions.
  2. A licensee may not allow vessels other than the assigned vessel and tender to use the mooring.
  3. A licensee shall ensure mooring spreader lines remain visible on the surface at all times by the use of floats or other devices or methods and shall keep the lines clean of algae and other marine growth. Except for spreader lines, the City shall be responsible for the maintenance, repair, and replacement of mooring system components, including, but not limited to, chains, shackles, anchors, weights, lines, and buoys.
  4. Live-aboards shall be prohibited except that this provision shall not apply to mooring permittees that also held a live-aboard permit as of September 1, 2028, whose mooring permit converted to a mooring license.
  5. The City may temporarily assign a mooring that is vacant or unoccupied to another vessel through the issuance of a mooring sub-permit in accordance with Section 17.60.040(H).
  6. A licensee shall move the vessel from the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster. Upon the licensee's failure to do so, the City or a contractor retained by the City may move the assigned vessel at the licensee's expense.
  7. A licensee shall be subject to relocation or reassignment to another mooring pursuant to Section 17.60.040(B)(2)(I).
  8. The Harbormaster may board the assigned vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether said devices are discharging overboard.
  9. A licensee shall defend and indemnify the City and any other government entity with jurisdiction against any claims or losses arising out of, or related to the use of, the mooring license except where the claim or loss arises from a sub-permittee's damage of the mooring, or out of the negligence and/or misconduct of a person assigned the mooring as a mooring sub-permittee under Section 17.60.040(H).
  10. A licensee shall notify the City within five (5) days of any change in the information that was provided in their mooring license application including, but not limited to, a change in ownership interest in the assigned vessel.
- G. Extended Vessel Absence. Vacancy or absence from the mooring by the assigned vessel for at least twenty-five (25) consecutive days shall be deemed abandonment of the mooring and shall result in automatic termination of the mooring license.

Termination of license based on abandonment shall not be appealable to the Harbor Commission. The following situations shall not constitute a mooring being deemed abandoned:

1. The absence or vacancy from the mooring, which shall not exceed six months, with the prior written approval of the Harbormaster.
2. The licensee is in the process of changing the assigned vessel, provided that (a) written notice of the intent to remove and replace the assigned vessel is given to the Harbormaster prior to removal of the vessel, (b) all required information and documentation for the new vessel, including proof of ownership or registration, is submitted to the Harbormaster within ninety (90) days of the date of the written notice, and (c) the vessel is made available for inspection by the Harbormaster for compliance with Section 17.25.020(H).

#### H. Mooring of a Tender and Request to Extend Mooring Length.

1. A single tender, which serves as access to and from shore to the assigned vessel, may be secured to the assigned vessel or to the offshore mooring in the absence of the assigned vessel. The tender must be secured in such a manner so as not to intrude into the fairway or obstruct other vessels.
2. A licensee may request a mooring length extension in accordance with Section 17.60.040(M).

#### I. Termination.

1. The Harbormaster may terminate a mooring license for the licensee's failure to correct any violation of this section or any applicable provision of this title within the timeframe set forth in a notice of violation issued by the Harbormaster.
2. Upon a determination that grounds for termination of a mooring license exist, the Harbormaster shall serve written notice of the termination in accordance with Section 1.05.030 to the licensee stating the grounds for the action, the effective date of the decision, and the right of the licensee to appeal the decision to the Harbor Commission. The licensee shall have fourteen (14) days from the date on which notice is deemed served to request a hearing or else the decision of the Harbormaster shall be final. Termination of a license for failure to pay any fees or based on the abandonment of a mooring shall not be appealable to the Harbor Commission.
3. Upon termination of the mooring license, the licensee shall immediately remove their vessel(s) from the mooring. The City may impound any vessel not removed within ten (10) days of the termination date and thereafter dispose of it in the manner provided by law. City-incurred costs for removal of the vessel may be charged against the licensee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel.

4. If a timely appeal is filed, the process for revocation of mooring permits set forth in Section 17.70.020 shall be followed. (Ord. 2023-17 § 2, 2023)