



**City of Newport Beach
Harbor Commission
Title 17 Review Subcommittee
Sections to Consider for Revision - FINAL**

SUGGESTED REVISION 001

There is a discrepancy in the code over who has the authority to review mooring specifications. The current code reads:

17.25.020 Anchorage, Berthing and Mooring Regulations.

J. Specifications. Specifications for the size of chains required on moorings, **weights** of moorings, and other mooring equipment shall be established by the Harbor Commission.

17.60.040 Mooring Permits.

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.

Recommendation: Reconcile this discrepancy with direction that one or the other section be changed, giving authority either to the Harbor Commission or the Harbormaster in both sections. Recommended revisions to consider are highlighted:

17.60.040 Mooring Permits.

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 **with reference to the specifications established by the Harbor Commission as required in Section 17.25.020(J)**; 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

SUGGESTED REVISION 002

It is felt the process for suspending MAPS is too onerous to make suspension a viable tool to encourage compliance. Administrative citations are effective but also rather harsh, especially for some issues that can be addressed with a brief suspension. Please consider replacing B-2 with something that says a MAP may be suspended upon the determination of the City (not the Harbormaster) that the permittee has violated the terms and conditions of the MAP at least two times within any twelve (12) month period. Please consider revising Subsection B-4 to say that after any suspension, the permittee may apply for reinstatement of the MAP upon demonstrating to the satisfaction of the Harbormaster that all operations of the business are in compliance with the terms and conditions of the MAP or something close to that. The current code reads:

17.70.015 Suspension of Marine Activities Permit.

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

1. The Harbormaster 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 written notice of intention to suspend the permit. The written notice shall be served on the owner in accordance with Section 1.05.030, directing the permittee to appear at the date, time and place for a hearing on the suspension of the marine activities permit. 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. 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.

2. The hearing shall be conducted according to the rules normally applicable to administrative hearings. At the hearing, a Hearing Officer will preside over the hearing, take evidence and then submit proposed findings and recommendations to the City Manager. The City Manager shall suspend the marine activities permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the suspension is consistent with the provisions of this section. If the City Manager determines there are grounds for suspension of a marine activities permit, he/she shall provide written notice of the suspension to the permittee shown on such permit, stating the grounds for the action, the length of suspension, and the effective date of the decision. The notice of decision shall be served in accordance with Section 1.05.030 within thirty (30) days of the City Manager receiving recommendations from the hearing officer. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

3. If a marine activities permit is suspended, it shall be the marine activities permit holder's responsibility to suspend all activities related to the commercial activities during the term of the suspension.
4. After any suspension, the owner may apply for reinstatement of the marine activities permit, as provided for in Section 17.10.030, provided the owner has paid the City all amounts owed the City in accordance with this chapter and this Code. (Ord. 2023-22 § 770, 2023; Ord. 2021-3 § 4, 2021)

Recommended revisions to consider are highlighted:

17.70.015 Suspension of Marine Activities Permit.

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 ~~of intention to suspend~~**ing** the permit. The written notice shall be served on the owner in accordance with Section 1.05.030. ~~directing the permittee to appear at the date, time and place for a hearing on the suspension of the marine activities permit.~~ 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.
2. The hearing shall be conducted according to the rules normally applicable to administrative hearings. At the hearing, a Hearing Officer will preside over the hearing, take evidence and then submit proposed findings and recommendations to the City Manager. The City Manager shall suspend the marine activities permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the suspension is consistent with the provisions of this section. If the City Manager determines there are grounds for suspension of a marine activities permit, he/she shall provide written notice of the suspension to the permittee shown on such permit, stating the grounds for the action, the length of suspension, and the effective date of the decision. The notice of decision shall be served in accordance with Section 1.05.030 within thirty (30) days of the City Manager receiving recommendations from the hearing officer. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

3. If a marine activities permit is suspended, it shall be the marine activities permit holder's responsibility to suspend all activities related to the commercial activities during the term of the suspension.
4. After any suspension, the owner may apply for reinstatement of the marine activities permit, as provided for in Section 17.10.030, provided the owner has paid the City all amounts owed the City in accordance with this chapter and this Code. (Ord. 2023-22 § 770, 2023; Ord. 2021-3 § 4, 2021)

SUGGESTED REVISION 003

Current Code:

11.20.050 Cleaning of Fish or Mussel.

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 or upon the floor or railings of such piers. (Ord. 95-1 (part), 1995; Ord. 93-28 § 2 (part), 1993)

Recommended revisions to consider are highlighted:

11.20.050 Cleaning of Fish or Mussel.

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**.

SUGGESTED REVISION 004

Current code:

17.10.020 Permit for Commercial Activities in Newport Harbor Required.

A. No person shall engage in any commercial activity including, but not limited to, scheduling, arranging, 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.

Recommended revisions to consider are highlighted:

17.10.020 Permit for Commercial Activities in Newport Harbor Required.

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.

<<This advertising language was pulled from and is, therefore, consistent with 5.95.020>>

SUGGESTED REVISION 005

Current code:

17.25.020 Anchorage, Berthing and Mooring Regulations.

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 shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.

Recommended revisions to consider are highlighted:

17.25.020 Anchorage, Berthing and Mooring Regulations.

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:

L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased, **loaned** or rented by the permittee to another person. except with the written permission of the Harbormaster.

SUGGESTED REVISION 006

Current code:

10.06.010 Human Waste.

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 or other public place except in a public or private restroom. (Ord. 2023-22 § 437, 2023; Ord. 1506 § 1, 1973)

Recommended revisions to consider are highlighted:

10.06.010 Human Waste.

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 restroom. (Ord. 1506 § 1, 1973)

SUGGESTED REVISION 007

Current code:

17.60.040 Mooring Permits.

B. Issuance of Permit—Conditions.

2. Permit Requirements.

a thru l

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:

Recommended revisions to consider are highlighted:

17.60.040 Mooring Permits.

B. Issuance of Permit—Conditions.

2. Permit Requirements.

...

m. Agree not to advertise for rent, rent, lease, assign, loan, or transfer the use of the mooring to any other person without prior written permission of the Harbormaster

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, a mooring permittee may not **advertise for rent**, rent, **lease**, 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:

SUGGESTED REVISION 008

Current code:

17.05.140 Public Hearings.

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, excluding intervening rights-of-way and waterways, 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.

Recommended revisions to consider are highlighted:

17.05.140 Public Hearings.

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, **excluding intervening rights-of-way and waterways**, 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.

SUGGESTED REVISION 009

It has been pointed out that a section of the code related to discharge into the harbor could be interpreted as pertaining only to discharge from a marine sanitation device. It is thought that the section should be clear that any and all discharge into the harbor is prohibited. The current code reads:

17.45.030 Waste and Refuse.

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 on a vessel into the waters of Newport Harbor or the Pacific Ocean. In accordance with California Harbors and Navigation Code Section [782](#), 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.

Recommended revisions to consider are highlighted:

17.45.030 Waste and Refuse.

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 any other means** on a vessel 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, 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.

SUGGESTED REVISION 010

It is suspected that there are many instances of mooring permittees offering their moorings for rent to non-permittees. The code currently requires that the mooring permittee be on the title of any vessel assigned to a mooring. This requirement can be met through a change of title on the vessel or a change in a partnership or LLC agreement. There is no requirement that other names on title of the vessel also be on the title of the mooring. There have been occurrences of an owner of a vessel assigned to a mooring but not listed as a permittee violating the terms of the permit or the City of Newport Beach Municipal Code. Because the offending vessel owner is not a permittee, the remedies available for encouraging better behavior are limited. Mooring revocation and fines levied against the permittee may not be options in these circumstances. It is thought that if the names on title of the vessel were consistent with the names on the mooring permit, enforcing compliance with terms of the permit would be easier and the illegal subletting of a permit to a non-permittee would be reduced if not eliminated.

Relevant Existing Code Sections, emphasis added to most relevant sections:

17.01.030 (A) Definition of Terms.

6. Assigned Vessel. The term “assigned vessel” shall mean a vessel lawfully owned and registered or documented to a permittee to occupy a designated mooring or berthing location in Newport Harbor.

17.25.020 Anchorage, Berthing and Mooring Regulations.

L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.

17.60.040 (B) Mooring Permits – Issuance of Conditions - Conditions.

2. Permit Requirements. A mooring permit may be issued to a maximum of two 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 his 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.

Recommended revisions to consider are highlighted:

17.60.040 (B) Mooring Permits – Issuance of Conditions - Conditions.

g. Provide registration or other proof of controlling possessory right in the assigned vessel **that matches the names of the permittee or permittees,** all to the satisfaction of the Harbormaster;

SUGGESTED REVISION 011

The City of Newport Beach is committed to maintaining the health, safety, and environmental integrity of Newport Harbor. As stewards of this vital marine resource, it is essential that we continue to adapt and strengthen our policies to support responsible boating practices and safeguard water quality.

This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that any vessel on which a person stays aboard overnight be equipped with either a legitimate portable marine sanitation device (MSD) — compliant with U.S. Coast Guard and California State Parks Division of Boating and Waterways standards — or a permanently installed and operable marine sanitation system. The use of non-compliant, improvised waste containment methods, such as buckets, will not be considered acceptable.

This amendment is necessary to reduce the risk of illegal or improper waste discharge into the harbor, enhance public health protections, and align with best practices in harbor management. Ensuring that all overnighting vessels are equipped with appropriate sanitation systems reinforces the City's long-standing commitment to a clean, safe, and sustainable harbor environment for all users.

Relevant Existing Code Sections, emphasis added to most relevant section:

17.25.020 Anchorage, Berthing and Mooring Regulations.

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 shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay

Recommended revisions to consider are highlighted:

m. For vessels 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 Newport Harbor

n. For any vessel on which a person may stay aboard overnight on 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.