



# NEWPORT BEACH

## City Council Staff Report

July 23, 2024  
Agenda Item No. 3

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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**TITLE:** Ordinance No. 2024-15: Amending Sections 17.60.010 (*Public Trust Lands – General*), 17.60.020 (*Application for Pier/Mooring Permits or the Lease of Public Trust Lands*), 17.60.040 (*Mooring Permits*), and 17.60.045 (*Short-Term Mooring Licenses*) of the Newport Beach Municipal Code Related to Mooring Permits and Licenses

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### **ABSTRACT:**

For the City Council’s consideration is the adoption of Ordinance 2024-15, amending Sections 17.60.010, 17.60.020, 17.60.040, and 17.60.045 of the Newport Beach Municipal Code (NBMC) revising the permit requirements and rules related to transferability for mooring permits and licenses in Newport Harbor. The ordinance was introduced and considered at the July 9, 2024, City Council meeting.

### **RECOMMENDATIONS:**

- a) Find the adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly, and is not a project pursuant to Section 15061(b)(3). Additionally, adoption of the ordinance is categorically exempt pursuant to Sections 15301 (Existing Facilities) and 15302 (Replacement or Reconstruction) of the CEQA Guidelines; and
- b) Conduct second reading and adopt Ordinance No. 2024-15, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Sections 17.60.010 (Public Trust Lands – General), 17.60.020 (Application for Pier/Mooring Permits or the Lease of Public Trust Lands), 17.60.040 (Mooring Permits), and 17.60.045 (Short-Term Mooring Licenses) of the Newport Beach Municipal Code.*

### **DISCUSSION:**

On July 9, 2024, the City Council introduced and passed to second reading Ordinance No. 2024-15 (Ordinance) (Attachment A). The Ordinance and Resolution No. 2024-47 (Resolution), which was approved by the City Council on July 9, 2024, were submitted for the City Council’s consideration as an alternative to a recommendation from the Harbor Commission regarding updating the rental rates for mooring permits in Newport Harbor to reflect current fair market value. If adopted, the Ordinance, will become effective after 30 days and will result in several changes to the programs governing use of moorings in Newport Harbor.

Under the Ordinance and Resolution, the following will occur:

1. Permit Rates – Grandfather Existing Rates

- a. Existing onshore and offshore permit holders will continue to be subject to the current mooring rates established in 2016 under City Council Resolution No. 2016-17 (2016 Resolution). This allows the current permit holders to continue to pay the same rates, with annual CPI adjustments or 2% maximum (whichever is less), until the permit is transferred (subject to the transfer conditions below) or the permit is relinquished.
- b. Currently, onshore permit holders pay \$1.67 per linear foot per month and offshore permit holders pay \$3.35 per linear foot per month.

2. Permit Transfers – Transfers Limited

- a. Existing mooring permittees may privately transfer their permit to a new permit holder one time within four years from the effective date of the Ordinance, but no later than August 21, 2028. After August 21, 2028, or after the one-time private transfer (whichever occurs first), no further transfers are allowed.
- b. If a death of a permittee occurs, the executor or administrator may hold the mooring permit for only one year. During that one-year period, the executor or administrator must secure a City-licensed mooring or find a new location for the vessel.

3. Transferred Permits

- a. Mooring permittees who obtained their permit through a private transfer during the initial four years after adoption of the Ordinance will continue to pay the existing rates established by the 2016 Resolution for four additional years from the date of the transfer. After four years, the mooring permits will be converted to a City license and will be subject to the then-current short-term mooring license rates established by Resolution No. 2023-62. There is no City fee for converting the permit to a license.

4. Maintenance of Mooring Tackle

- a. Existing mooring permittees or those who acquire permits through a private transfer during the four years after adoption of the Ordinance and are subject to the existing mooring rates under the 2016 Resolution, are responsible for providing and maintaining the mooring and tackle pursuant to NBMC Section 17.60.040(B)(2)(b).
- b. The City shall be responsible for the cost of providing and maintaining the mooring and tackle for mooring users under the City's short-term mooring license program, and for those whose permit has converted to a City license.

5. Future Mooring Users

- a. New mooring users under the City license program are subject to short-term mooring rates established by Resolution No. 2023-62. The license for use of the mooring will be governed by the City's short-term mooring license regulations NBMC Section 17.60.045.

6. Yacht Clubs

- a. The Balboa Yacht Club, the Newport Harbor Yacht Club, and the Lido Isle Community Association are subject to the mooring rates established in the 2016 Resolution until August 31, 2032. Thereafter, the mooring permits held and administered by the yacht clubs will convert to mooring licenses and shall be subject to the short-term mooring rates established in Resolution No. 2023-62.

**FISCAL IMPACT:**

Revenues collected for mooring permits and licenses, including any increases in revenue pursuant to a change in the mooring rental rates, will be posted to the Tidelands Fund and Tidelands Capital Fund accounts in the Harbor Department, 10045451-551035, 10045451-551040, 10103-551035, and 10103-551040. The revenues collected pursuant to the currently approved rates are included in the budget for fiscal year 2024-2025.

**ENVIRONMENTAL REVIEW:**

The introduction and adoption of this ordinance is not subject to the California 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 regulations of mooring permits and licenses located upon tidelands is entitled to a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) and Class 2 Categorical Exemption pursuant to Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines. 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.

Lastly, the 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.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

**ATTACHMENT:**

Attachment A – Ordinance No. 2024-15