



CITY OF

NEWPORT BEACH

Harbor Commission Staff Report

May 11, 2022
Agenda Item No. 6.1

TO: HARBOR COMMISSION

FROM: Paul Blank, Harbormaster, (949) 270-8158 pblank@newportbeachca.gov

TITLE: Recommended Revisions to the City of Newport Beach Municipal Code Related to Raft-ups

ABSTRACT:

As one of its 2021 objectives, the Harbor Commission tasked itself with reviewing and recommending revisions to Title 17 of the City of Newport Beach Municipal Code (NBMC). Fulfilling that objective, the Harbor Commission forwarded to the City Council on April 12, 2022 a variety of recommended revisions to the NBMC including some related to raft-ups. Based on community input submitted directly to Council members, the Council requested additional review by the Harbor Commission for the recommendations related to raft-ups. The recommended changes are intended to assist staff and the Harbor Commission when considering operations, permitting and code enforcement in Newport Harbor.

RECOMMENDATION:

- 1) Determine that the project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly and
- 2) Review, modify and or approve proposed raft-up related revisions to the City Municipal Code and forward the recommendations to the City Council for consideration.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

At its April 12, 2022 meeting at which recommended revisions to the NBMC were considered, the City Council requested additional review by the Harbor Commission for the recommendations related to raft-up provisions in Title 17. Community input made directly to the Council members concerning the revisions specific to raft-ups prompted the Council to request further review and community input.

Analysis

NBMC Title 17 does not currently define or effectively regulate "raft-ups," which have proliferated and become challenging to manage in recent years. Adding the requirement to obtain a permit for and more clearly define raft-ups specifically in NBMC Title 17 will allow the City to regulate

and better manage them and thereby improve safety and the enjoyment of the Harbor for users and adjacent residents.

The necessity to permit raft-ups is a requirement of the City Fire Code. NBMC Section 9.04.350 Amendments to Section 3603.6 Berthing and Storage includes:

3603.6.2 Permitted multiple berthing. A permit may be issued for multiple berthing under the following conditions:

2. The multiple berthing is necessary for a special event or other extenuating circumstances and will occur for a limited period of time, which shall be approved by the fire code official and per City's Guidelines and Standards A.10 Multiple Berthing and/or Rafting at Special Events.

The City's Guidelines and Standards A.10 Multiple Berthing and/or Rafting at Special Events includes the following definition:

RAFTING: To moor with more than one boat tied together, usually using only one boat's anchor and line

The difficulty of fighting a fire or providing life-saving services in the event of an emergency increases proportionately with the number of vessels involved in a raft-up. Vessels of differing heights, freeboards and positions for boarding all complicate efforts to move quickly and safely from one vessel to another within raft-ups. Carrying life-saving or fire-fighting equipment makes movement from one vessel to another that much more challenging and dangerous.

Permits for organized events including raft-ups are helpful to staff when the need arises to identify responsible parties and the general characteristics of such events. Should concerns arise over the circumstances associated with any raft-up, whether reported by other mariners, nearby residents or direct observation, Harbor Department staff is obliged to investigate and attempt to gain compliance with all aspects of NBMC, California State boating laws, regulations and the US Inland Waterways Navigation Regulations. In the absence of a permit, determination of a responsible party when investigating concerns is made significantly more difficult.

Harbor Department Policy

Based on that community input made directly to Council members and direction from Council to the Harbor Commission to reconsider their raft-up related recommendations, the Harbor Department revised the current policy and approach to permitting raft-ups. The current policy is:

- boats anchored in Newport Harbor must do so within the boundaries of the designated anchorages
- boats enjoying the anchorage during daylight hours are welcome to tie together and use common anchors without a permit
- a raft-up permit is required if three or more vessels are tied together enjoying the anchorage after sunset
- permitted raft-ups are limited to
 - o the east anchorage
 - o a total of 10 vessels in any single raft-up - dinghies and tenders of fourteen (14) feet LOA or less are excluded from the vessel count
 - o a total of 4 raft-ups on any given night

The current Department policy is based on Council direction, community input and recognizes:

- raft-ups enjoyed during daylight hours typically have crew aboard all vessels that are awake, alert and can adequately address emergencies
- raft-ups enjoyed during evening or overnight hours may not have crew on watch that can adequately address emergencies

Harbor Commission Recommendation

The Harbor Commission is asked to consider what, if any limitations should be placed on raft-ups in these categories:

- enjoying the anchorage only during daylight hours
- enjoying the anchorage overnight

The limitations to be considered in each category may include:

- whether a responsible party should be identified
- a reasonable lead-time for permit application submission and review
- minimum number of vessels necessary to require a permit
- maximum number of vessels associated with any given permit
- maximum number of permits issued for any given date
- the definition of ancillary vessels not to be counted in the total vessel limit

The Commission may also wish to consider including the typical conditions associated with a raft-up permit in the NBMC. Those typical conditions include:

- 1. No live entertainment**
- 2. No discharge or dumping of garbage, waste or other materials**
- 3. Music from any onboard amplification systems must not be loud and unreasonable and must comply with the standards called out in City of Newport Beach Municipal Code sections**
 - a. 10.28 - Loud and Unreasonable Noise and**
 - b. 10.32 - Sound Amplifying Equipment**
- 4. Applicant shall obey the lawful orders of any code enforcement officer, peace officer, fire/lifeguard/safety officer or other city official**

The characteristics and options related to raft-ups are now ready for review and discussion by the public and entire Harbor Commission. When agreed upon, the suggested revisions will be forward to the City Council for consideration.

In the interest of prompting a robust, constructive, efficient and effective discussion on characteristic, draft code revisions and the associated rationale were prepared based on input from Commissioners, interested parties and staff. Those draft revisions and rationale for associated with them are included in Attachment B. A clean version of the drafted revisions is also provided as Attachment C.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action 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.

NOTICING:

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

ATTACHMENTS:

Attachment A – April 12 staff report to the City Council
Attachment B – CNB MC Amendments 2022-05 – Raft-ups (strikeout)
Attachment C – CNB MC Amendments 2022-05 – Raft-ups (clean)