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NEWPORT BEACH
Harbor Commission Staff Report

August 14, 2019
Agenda Item No. 7.1

TO: HARBOR COMMISSION

PREPARED BY: Carol Jacobs, Assistant City Manager, (949) 644-3313
cjacobs@newportbeachca.gov

PREPARED BY: Carol Jacobs, Assistant City Manager,
cjacobs@newportbeachca.gov

PHONE: 949-644-3313

TITLE: Proposed Changes to Title 17 – Harbor Code, Sections 17.40 (Live-Aboards), 17.45 (Sanitation), 17.50 (Harbor Development Permits), 17.55 (Dredging Permits), 17.60 (Harbor Permits and Leases), 17.65 (Appeals), 17.70 (Enforcement)

ABSTRACT:

The City Council requested that the Harbor Commission review Title 17 – Harbor Code, of the Newport Beach Municipal Code in February 2018. The Harbor Commission appointed an ad hoc committee comprising of Commissioners Blank, Kenney and Yahn. The proposed changes are recommended to the full Harbor Commission for consideration.

RECOMMENDATION:

- 1) Determine this action 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
- 2) Approve the proposed changes as identified on Attachment A and authorize staff to forward the changes to the City Council for consideration.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

At the request of the City Council, the Harbor Commission was tasked with revising and updating Title 17- Harbor Code. The purpose of this revision was to review the code in light of the City's new Harbor Department and increased service levels.

The Harbor Commission created a subcommittee comprising of Commissioners Blank, Kenney and Yahn. The subcommittee worked together for months to review Title 17 and update the code in draft form as they saw necessary.

The subcommittee then embarked on a public outreach campaign to reach all of the stakeholders and garner input from the community. The subcommittee met with the community on May 13 and June 24 to receive public input. The public comments are in Attachment B and C respectively. Emails received from the public are Attachment D. In addition, the City Attorney’s office has completed an initial review of these sections and may have additional comments to the recommendations prior to City Council review.

This staff report and its recommendations are the result of a review by the Harbor Commission subcommittee, staff and the community. The following sections were reviewed:

| <u>Section</u> | <u>Title</u> |
|----------------|----------------------------|
| 17.40 | Live-Aboards |
| 17.45 | Sanitation |
| 17.50 | Harbor Development Permits |
| 17.55 | Dredging Permits |
| 17.60 | Harbor Permits and Leases |
| 17.65 | Appeals |
| 17.70 | Enforcement |

All the proposed revisions are shown in Attachment A. Some major changes include:

- Clearly defining live-aboards in commercial marinas, limiting the number that can have a permit (7% of slips) and prohibiting live-aboards bayward of residentially owned properties.
- Requiring operable marine sanitation devices and dye tablet testing for live-aboard permits.
- Requiring proper disposal of trash from vessels in the harbor.
- Requiring commercial pumpout or other verifiable methods to ensure no dumping into the harbor.
- All vessels in Newport Harbor are subject to a dye tablet test and failure could result in removal from Newport Harbor.
- Clarified Harbor Development Permits.

- Revised language for Appeals or Calls for Review.
- Added language to Public Trust Lands, providing clarification.
- Added new section outlining rules for requests for mooring extensions.
- Revised appeals and call for review to more closely mirror the Planning Commission. This section will require additional review by staff.

The Commission may approve, modify or reject any of the proposed changes.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council 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, 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 City Council considers the item).

ATTACHMENTS:

- Attachment A – Proposed changes to Title 17
- Attachment B – Public Comments from May 13, 2019 public meeting
- Attachment C – Public Comments from June 24, 2019 public meeting
- Attachment D – Emails from the public