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NEWPORT BEACH

Harbor Commission Staff Report

September 9, 2020
Agenda Item No. 11.2

TO: HARBOR COMMISSION

FROM: Carol Jacobs, Assistant City Manager - 949-644-3313,
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TITLE: Proposed Amendments to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations

ABSTRACT:

During the past year the Harbor Commission has reviewed, solicited public input and recommended changes to Title 17 of the Newport Beach Municipal Code (the Harbor Code) to the City Council.

On January 28, 2020, the City Council adopted these proposed changes to Title 17 as recommended. As part of that action, City Council requested the Harbor Commission return to City Council with additional recommendations associated with requirements for live-aboard boaters with vessels in commercial marinas. (Attachment A – Pages 1-2).

Unrelated to the live-aboard related recommendations, staff is also requesting the Harbor Commission consider a recommended set of clarifications to Title 17, associated with use of the in-harbor public anchorage. (Attachment A – Pages 3-4).

RECOMMENDATION:

1. Find this action exempt from 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; and
2. Approve the recommended changes to Title 17 - 17.01 - Definition of Terms; 17.40 - Commercial Live Aboards; 17.20.020 Vessel Operations; and 17.25.020 - Anchorage, Berthing and Mooring Regulations and forward to City Council for their consideration.

FUNDING REQUIREMENTS:

There is no fiscal impact related to this item.

DISCUSSION:

As part of the update to Title 17, the City Council requested that the Harbor Commission review the language relating to live-aboards in commercial marinas. As part of this review, the Harbor subcommittee consisting of Chair Kenney and Commissioner Yahn, held a public meeting on this issue on August 26, 2020. Letters were sent to all commercial marina operators in the City. The Commission received three letters (Attachment B) and eight individuals attended the virtual meeting.

Following the review of issues associated with live-aboard in commercial marina 17.01 and 17.40, staff is requesting changes to NBMC Section 17.01.030 - Definition of Terms and to NBMC Section 17.40 – Live Aboards. These recommended changes are intended to clarify expectations of permitted live-aboards in the mooring fields vs. those in commercial marinas.

The proposed revisions to 17.01 include:

- Modifying the definition of live-aboard, to clarify the difference between off-shore mooring live-aboards and commercial marina live-aboards.

The proposed revisions to 17.40 include:

- Clarifying the requirement associated with obtaining a live-aboard permit, specifically requiring a valid mooring permit in the case of those requesting live-aboard status in the mooring fields, and requiring a valid rental agreement in the case of those requesting live-aboard status in a commercial marina.
- Clarifying that live-aboard permits are issued to those making use of their vessel as their principal residence, as well as defining the minimum number of days in any calendar year one must reside on the vessel as a live-aboard on an off-shore mooring or a commercial marina.

In addition to the proposed revisions to 17.40, staff is requesting changes to Sections 17.20.020 - Vessel Operations and 17.25.020 - Anchorage, Berthing and Mooring Regulations, both intended to clarify public use expectations within the anchorage.

The proposed revisions to 17.20.020 and 17.25.020 include:

- Establishing continuous vessel occupancy expectations for anchored vessels.
- Establishing a maximum seventy-two (72) hours within any thirty (30) calendar day period for anchoring a vessel within the public anchorage.
- Establishing a provision for the Harbormaster to entertain and authorize extensions to this seventy-two (72) hour time limit, when circumstances are warranted.

The Harbormaster believes these clarifications will provide additional tools to manage the public anchorage more safely and effectively.

ENVIRONMENTAL REVIEW:

Staff recommends the Harbor Commission find this action exempt from 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 Harbor Commission considers the item).

ATTACHMENTS:

Attachment A – Redline recommended changes
Attachment B – Correspondence