



## CITY OF NEWPORT BEACH HARBOR COMMISSION AGENDA

City Council Chambers - 100 Civic Center Drive and Teleconference Location  
Pursuant to GC§54953(B): 115 E. Lipoa St. Ste 107, Kihei, HI 96753

Wednesday, August 14, 2019 - 6:30 PM

### **Harbor Commission Members:**

Paul Blank, Chair  
Scott Cunningham, Vice Chair  
Ira Beer, Secretary  
William Kenney, Jr., Commissioner  
Marie Marston, Commissioner  
Steve Scully, Commissioner  
Don Yahn, Commissioner

### **Staff Members:**

Carol Jacobs, Assistant City Manager  
Kurt Borsting, Harbormaster  
Jennifer Biddle, Administrative Support Specialist

The Harbor Commission meeting is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Harbor Commission agenda be posted at least seventy-two (72) hours in advance of each regular meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Harbor Commission. The Chair may limit public comments to a reasonable amount of time, generally three (3) minutes per person.

The City of Newport Beach's goal is to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, we will attempt to accommodate you in every reasonable manner. Please contact Carol Jacobs, Assistant City Manager, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible at (949) 644-3001 or [cjacobs@newportbeachca.gov](mailto:cjacobs@newportbeachca.gov).

### **NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT**

Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the Harbor Department 24 hours prior to the scheduled meeting.

### **1) CALL MEETING TO ORDER**

### **2) ROLL CALL**

### **3) PLEDGE OF ALLEGIANCE**

### **4) PUBLIC COMMENTS**

*Public comments are invited on agenda and non-agenda items generally considered to be within the subject matter jurisdiction of the Harbor Commission. Speakers must limit comments to three (3) minutes. Before speaking, we invite, but do not require, you to state your name for the record. The Harbor Commission has the discretion to extend or shorten the speakers' time limit on agenda or non-agenda items, provided the time limit adjustment is applied equally to all speakers. As a courtesy, please turn cell phones off or set them in the silent mode.*

### **5) APPROVAL OF MINUTES**

#### **1. Draft Minutes of July 10, 2019, Harbor Commission Regular Meeting**

[Draft Minutes of July 10, 2019, Regular Meeting](#)

**6) PUBLIC HEARING****1. Residential Dock Reconfiguration at 1708-1710 South Bay Front**

The applicants at 1708 & 1710 South Bay Front are proposing to reconfigure their shared residential dock in a similar U-shape configuration. The proposed float will extend the same 15 feet beyond the pierhead line as it does in the current configuration. Council Policy H-1 generally allows floats to extend to the pierhead line, but the policy also allows the Harbor Commission to grant exceptions as to how far a float may extend beyond the pierhead line if specific findings are made. The applicant therefore, requests the Harbor Commission to approve the proposed dock configuration (Project).

**Recommendation:**

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 1708-1710 by making specific findings to allow the float to extend beyond the pierhead line by 15 feet pursuant to the provisions within Council Policy H-1.

[Staff Report](#)

[Attachment A - Council Policy H-1](#)

[Attachment B - Aerials Photos](#)

[Attachment C - Existing Approved Plans and Configuration](#)

[Attachment D - Proposed Configuration](#)

[Attachment E - Vessel Overhang Rule](#)

[Attachment F - Joint Owner Approval](#)

[Attachment G - Public Outreach](#)

**7) CURRENT BUSINESS****1. 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)**

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.

[Staff Report](#)

[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](#)

**2. Harbor Commission 2018 Objectives (Revised July 2019): Ad Hoc Committee Updates**

Each ad hoc committee studying their respective Functional Area within the Commission's 2018 Objectives, revised July 2019, will provide a progress update.

**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;
- 2) Add Commissioner Ira Beer to Object 4.1 and remove Commissioner Don Yahn from Objective 4.1 to more equally assign subcommittee responsibilities; and
- 3) Receive and file.

[Staff Report](#)

[Attachment A - Harbor Commission 2018 Objectives Revised July 2019](#)

**3. Harbormaster Report - July 2019**

The Harbormaster is responsible for the management of the City's mooring fields, the Marina Park Guest Marina and Harbor on-water code enforcement activities. This report will update the Commission on the Harbor Department's activities for July 2019.

**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) Receive and file.

[Staff Report](#)

[Attachment A - Marina Park Guest Slip Customer Survey Results for July 2019](#)

[Attachment B - Harbor Department Statistics Fiscal Year through July 2019](#)

- 8) **COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEMS)**
- 9) **QUESTIONS AND ANSWERS WITH STAFF ON HARBOR RELATED ISSUES**
- 10) **MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)**
- 11) **DATE AND TIME FOR NEXT MEETING: Wednesday, September 11, 2019 (Meeting will be held at Marina Park)**
- 12) **ADJOURNMENT**

**NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES**  
**Council Chambers – 100 Civic Center Drive, Newport Beach CA**  
**Wednesday, July 10, 2019**  
**6:30 PM**

**1) CALL MEETING TO ORDER**

The meeting was called to order at 6:33 p.m.

**2) ROLL CALL**

Commissioners: Scott Cunningham, Vice Chair  
Ira Beer, Commissioner  
Paul Blank, Commissioner  
William Kenney, Jr., Commissioner  
Marie Marston, Commissioner  
Steve Scully, Commissioner  
Don Yahn, Commissioner

Staff Members: Carol Jacobs, Assistant City Manager  
Kurt Borsting, Harbormaster  
Chris Miller, Public Works Manager  
Jennifer Biddle, Administrative Support Specialist

**3) PLEDGE OF ALLEGIANCE – Commissioner Beer**

Vice Chair Cunningham welcomed new Commissioners Marston and Scully.

Commissioners Marston and Scully introduced themselves.

**4) PUBLIC COMMENTS**

Pete Swift expressed concern regarding revisions to Policy H-1 resulting in more time and expense for homeowners to obtain permits for work on docks.

**5) APPROVAL OF MINUTES**

**1. Minutes of June 12, 2019, Regular Meeting**

Commissioner Beer corrected "The Policy will accommodate ..." in the paragraph at the top of page 4 to "The Policy should accommodate ... ." He requested deletion of "Within the 78 rows, approximately 246 moorings potentially qualify for a mooring extension" within the same paragraph. In the next paragraph, "... Commissioner Beer explained ..." should be "... Commissioner Beer concurred and further explained ... ." Within the fourth paragraph on page 4, the third and fourth sentences should be revised and combined as "Commissioner Beer indicated many rows can accommodate 5-foot extensions; however, in approximately 27 instances, vessels in a row exceed the recommended length."

Commissioner Blank requested the second paragraph on page 8 state "In reply to Commissioner Kenney's question regarding the Orange County Sheriff's Harbor Department facility, Commissioner Blank ... ."

Commissioner Kenney revised Mr. Callin's comments on page 6 to "... the time limit would cause ... ."

Commissioner Kenney moved to approve the Minutes of the June 12, 2019 meeting as amended. Commissioner Beer seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Vice Chair Cunningham, Commissioner Beer, Commissioner Blank, Commissioner Kenney,  
Commissioner Yahn

**Nays:** None  
**Abstaining:** Commissioner Marston, Commissioner Scully  
**Absent:** None

**6) CURRENT BUSINESS**

**1. Election of Officers**

The Harbor Commission will elect officers for the 2019-20 year.

**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.
- 2) Elect Chair.
- 3) Elect Vice Chair.
- 4) Elect Secretary.

Commissioner Cunningham nominated Commissioner Blank for the office of Chair.

Commissioner Yahn moved to approve the nomination of Commissioner Blank as Chair of the Harbor Commission. Commissioner Kenney seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Commissioner Cunningham, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn  
**Nays:** None  
**Abstaining:** Commissioner Blank  
**Absent:** None

Commissioner Beer nominated Commissioner Cunningham for the office of Vice Chair.

Commissioner Beer moved to approve the nomination of Commissioner Cunningham as Vice Chair of the Harbor Commission. Commissioner Kenney seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Blank, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn  
**Nays:** None  
**Abstaining:** Commissioner Cunningham  
**Absent:** None

Vice Chair Cunningham nominated Commissioner Beer for the office of Secretary.

Vice Chair Cunningham moved to approve the nomination of Commissioner Beer as Secretary of the Harbor Commission. Commissioner Kenney seconded the motion. The motion carried by the following roll call vote:

**Ayes:** Chair Blank, Vice Chair Cunningham, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn  
**Nays:** None  
**Abstaining:** Commissioner Beer  
**Absent:** None

The Harbor Commission recessed at 6:49 p.m. and reconvened at 6:52 p.m.

**2. Council Policy H-1 – Harbor Commission Review**

At the June 25, 2019 meeting, the City Council revised Council Policy H-1 to clarify the Policy's intent and process in order to assist staff and the Harbor Commission when considering future applications. The City Council also directed the Harbor Commission to review the recent changes and to make recommendations to the City Council regarding any proposed revisions thereto.

**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, Chapter 3, because it will not result in a physical change to the environment, directly or indirectly.
- 2) Assign the review of Council Policy H-1 to the Harbor Commission subcommittee for functional area four dealing with harbor policies within the Harbor Commission Objectives, and return to the Commission with recommendations.

Public Works Administrative Manager Chris Miller reported Council Policy H-1 provides rules for staff, the Harbor Commission, and Council review and approval of dock projects that extend beyond the pierhead line. At its most recent meeting, the City Council revised Policy H-1 to clarify language in the Policy and referred Policy H-1 to the Harbor Commission for review and feedback. The Harbor Commission may wish to refer Policy H-1 to the subcommittee for moorings and request a recommendation from the subcommittee.

Chair Blank remarked that the action before the Harbor Commission is not discussion of Policy H-1 but referral of Policy H-1 to a subcommittee for review and recommendation.

Commissioner Kenney noted the subcommittee for Functional Area 4 submitted lengthy recommendations to the City Council. The City Council elected to reduce the recommendations to a five-page narrative. In response to Commissioner Kenney's question, Public Works Administrative Manager Miller felt the intent of the Council direction was for the Harbor Commission to review Policy H-1 as currently written. The Harbor Commission may decide the depth of its review of Policy H-1 and recommend changes, if any, to the City Council.

Chair Blank believed Policy H-1 should be referred to the subcommittee for Functional Area 4.

Jim Mosher commented that Policy H-1 now requires any pier exceeding the pierhead line to meet five conditions. The five conditions could be listed in the Harbor Code as findings.

Chair Blank stated the public will have an opportunity to comment regarding Policy H-1 when the subcommittee presents its recommendations to the Harbor Commission.

Commissioner Beer moved to refer Policy H-1 to the subcommittee for Functional Area 4 for review with the subcommittee to present its findings and recommendations to the Harbor Commission by the Harbor Commission's September meeting. Vice Chair Cunningham seconded the motion.

In reply to Commissioner Kenney's query, Chair Blank indicated Commissioners will have an opportunity to bid for subcommittees later in the meeting.

In response to Assistant City Manager Carol Jacobs' request, Commissioner Beer and Vice Chair Cunningham amended the motion to refer Policy H-1 to the subcommittee for Functional Area 4 for review with the subcommittee to present its findings and recommendations to the Harbor Commission by the Harbor Commission's October meeting

The amended motion carried by the following roll call vote:

**Ayes:** Chair Blank, Vice Chair Cunningham, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn

**Nays:** None

**Abstaining:** None  
**Absent:** None

**3. Newport Harbor Vessel Pumpout Program.**

The City of Newport Beach offers a number of facilities and programs for the boating community to properly dispose of waste materials collected in vessel holding tanks. The Harbormaster will provide an informational presentation to the Harbor Commission, providing overview information about these facilities and programs.

**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.
- 2) Receive and file.

Harbormaster Kurt Borsting reported sewage can contain more than 100 different intestinal pathogens, viruses, and bacteria. Boating sewage has a far more concentrated quality than household waste because of reduced water usage aboard vessels. Sewage can have negative effects on plant species in waterways. Discharge from vessels into waterways can have many environmental effects on everything from shellfish beds to beach closures, oxygen depletion, algae blooms, and human health. The Clean Water Act imposes fines of up to \$2,000 per illegal discharge. State law also prohibits the dumping of any treated or untreated human waste into areas such as yacht harbors. Public pumpout facilities are provided in Newport Harbor at locations operated by the City, the Orange County Sheriff's Department, and private marinas. To encourage use of pumpout facilities, the facilities need to be accessible, operational, and clean. A third-party contractor, South Mooring, inspects equipment on Monday of each week and dispatches repairs as needed. On Wednesday or Thursday of each week, Harbor Department staff inspects the equipment a second time for operation and cleanliness. The second inspection allows repairs to be made before the weekend when recreational boaters use the Harbor. Staff ensures a robust inventory of parts is available by immediately reordering any part removed from inventory. At City pumpout facilities, signage provides clear instructions for use of the facilities and the Harbor Department's telephone number to report malfunctions. Staff has conducted outreach to individual audiences, primarily the live-aboard audience. Annually, live-aboards present their pumpout logs for staff review, and staff sets the expectation that live-aboards will utilize either pumpout facilities or a pumpout service. Smartphone apps are available that show public pumpout facilities and whether the facilities are operational. A recent check of one app showed a public pumpout facility at a local marina was not operational. Additional use of the app found the phone number for the marina was incorrect. Staff has worked with the marina to correct the telephone number. To further encourage use of pumpout facilities, instructional videos and campaign materials can be made available to the public through the website and social media. State grants are available for education, outreach, replacement equipment, operations, and maintenance. While the City's capital equipment budget contains funding to replace aging equipment, staff will pursue equipment grants to supplement the funding or reallocate City funding to other needs. The Bay Foundation, as a Division of Boating and Waterways contractor, conducts quarterly surveys of public pumpout locations and assigns usability scores. Based on information provided by South Mooring, rough calculations indicate between 400 and 800 vessels utilized City pumpout facilities in a calendar quarter. Staff will continue exploring smart ways to operationalize the Harbor Commission's commitment to keep the Harbor clean.

Vice Chair Cunningham recalled that pumpouts were a major issue throughout the Harbor two years earlier. Commissioner Beer recalled the same and that Commission meetings concerned the number of City-managed pumpout facilities that were operational. The live-aboards' logs of pumpouts are important. Commissioner Beer commended staff and Mr. South for their work to improve the situation.

Harbormaster Borsting clarified that staff could take credit for improving the inventory of parts, but Mr. South and his employee assigned to pumpout facilities are committed to maintaining pumpout equipment to high standards.



In answer to Commissioner Yahn's questions, Harbormaster Borsting understood private pumpout locations depicted on the map and the mobile app had received grants for equipment. However, the private owner is responsible for maintaining and repairing the equipment. As he understood the grants, both the private owners and the City could apply for maintenance grants through the Division of Boating and Waterways. Public Works Administrative Manager Miller advised that pumpouts were originally installed on private property because the Water Board had created standards for marinas with more than 50 boats to install pumpouts. Several years ago, the City with assistance from the Water Board enforced repair of pumpout equipment on private property. Perhaps, there could be some direction for the Harbor Department to inspect pumpout facilities on private property. Forcing marinas to repair pumpouts is challenging. Harbormaster Borsting added that staff will conduct some research into ways the Harbor Department can support and follow up with marinas to ensure pumpouts are operational. The Marina Park pumpout facility services the 23-slip guest marina, and staff operates the pumpout for guests. Guests typically utilize the Marina Park shower and restroom facilities rather than on-board facilities. Use of the Fernando Street pumpout is challenged by lower pressure than at other locations and the physical arrangement of the equipment. Boaters probably prefer other locations over the Fernando Street location.

In response to Commissioner Beer's inquiry, Harbormaster Borsting indicated the grants are offered by the State and funded by the purchase of vessel fuel. He agreed to review the grant documentation to determine whether it required repair of pumpout facilities funded by a grant.

Chair Blank noted the Water Board is the Santa Ana Regional Water Quality Board.

In reply to Commissioner Kenney's query, Public Works Administrative Manager Miller had not contemplated whether the new Swales Marina is required to install a pumpout facility; however, the City would not enforce compliance with the Water Board's Order. Chair Blank believed Swales Marina has only 47 slips.

Commissioner Kenney suggested the Harbor Commission study and recommend any retrofit, new, or expansion project for a public marina be required to include installation and maintenance of pumpout facilities. The Washington dock is challenging to use because it is narrow.

In answer to Commissioner Scully's questions, Public Works Administrative Manager Miller reported the County of Orange tests water quality within the Harbor at least weekly and provides reports to the City Council's Coastal/Bay Water Quality Committee. Low water quality is found in some areas, and beaches in those areas are posted accordingly. Chair Blank indicated the most consistently problematic area has been the Arches bridge because of faulty runoff and diversion from upland drainage ditches. A project within the past ten months has hopefully corrected the problem.

In response to Commissioner Marston's inquiries, Harbormaster Borsting assumed the acceptance of an equipment grant as well as the Water Board's requirement for marinas with 50 slips to install a pumpout facility obligated marinas to repair pumpout equipment. Public Works Administrative Manager Miller explained that a grant is good for seven years. During the seven-year time period, the pumpout facility has to be available to the public. The State pays 75 percent of the cost of installation and equipment, which can total \$20,000. A condition of the grant is for the recipient to maintain and repair the equipment for the public's use.

**4. Harbor Commission 2018 Objectives: Review and Assign Committee Members to the Commission's Objectives – Update for FY 2019-20**

This is the time in which the Harbor Commission will review their 2018 Objectives, update as necessary and assign new Harbor Commissioners to subcommittees. In addition, each ad hoc committee studying their respective Functional Area within the Commission's 2018 Objectives will provide a progress update.

**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.

- 2) Review Objectives for FY 2019-20 and make any necessary adjustments to subcommittee members.

Assistant City Manager Jacobs reported Objective 4.2 has been completed and can be removed. Policies H-1-5 have been completed; however, Policy H-1 has been referred for additional review. The Harbor Commission may wish to review Objectives and Commissioner assignments each July to coincide with Commissioners' terms.

Chair Blank suggested Commissioners refer to the Objectives as the "current Objectives as set in 2018" and revise the Objectives for the balance of the calendar year as he anticipated the Commission would establish new Objectives in early 2020 and submit them to the Council for ratification.

Vice Chair Cunningham wanted to move more quickly and establish or revise the Objectives during the calendar year.

Commissioner Kenney questioned whether Objective 2 should continue. Commissioner Beer advised that he has considered consolidating Objective 2 with Objective 3. Chair Blank indicated the Commission can discuss consolidation of the two Objectives when establishing Objectives later in the year.

Commissioner Kenney advised that Objective 5.2 is complete.

The following assignments were made:

Functional Area 1: Vice Chair Cunningham, Commissioner Marston

Functional Area 2: Commissioner Beer (Chair), Commissioner Yahn, Commissioner Scully

Functional Area 3: Commissioner Beer, Commissioner Yahn, Commissioner Scully

Functional Area 4: Commissioner Kenney, Chair Blank, Commissioner Yahn

Functional Area 5: Commissioner Yahn (Chair), Commissioner Kenney, Commissioner Marston

Functional Area 6: Chair Blank, Vice Chair Cunningham, Commissioner Scully

Commissioner Scully moved to approve the assignment of Commissioners to subcommittees for Functional Areas of the Harbor Objectives as noted above. Commissioner Marston seconded the motion.

Jim Mosher commented that the Harbor Commission can appoint subcommittees that meet publicly or privately. Subcommittees that meet privately may not be composed of a quorum of Commissioners and may serve as advisory bodies only to the Harbor Commission. The subcommittee for Functional Area 2 was tasked with presenting a report regarding Objective 2.1 in July 2019.

In response to Assistant City Manager Jacobs' inquiry, Commissioners Scully and Marston amended the motion to combine Functional Areas 2 and 3 with the assignment of Commissioners Beer, Yahn and Scully to the resulting subcommittee and to acknowledge Objectives 3.2, 4.2, and 5.2 are complete.

The motion carried by the following roll call vote:

**Ayes:** Chair Blank, Vice Chair Cunningham, Commissioner Beer, Commissioner Kenney, Commissioner Marston, Commissioner Scully, Commissioner Yahn

**Nays:** None

**Abstaining:** None

**Absent:** None

Functional Area 1: Vice Chair Cunningham had no update to provide the Commission.

Functional Area 2/3: Commissioner Beer reported Objective 3.2 is complete, and the subcommittee will move to other objectives within the Functional Area. In reply to Chair Blank's query, Commissioner Beer agreed to contact former Commissioner Drayton regarding a report on Harbor operations.

Functional Area 4: Commissioner Kenney advised that the second stakeholder meeting was held June 24, and the public provided good feedback to proposed revisions. The subcommittee will meet the following Tuesday hopefully to finalize recommendations for presentation to the Harbor Commission in August. The subcommittee will next focus on revisions to Section 17.10, Marine Activities Permits. The goal is to present recommendations for all of Title 17 to the City Council by year end.

Functional Area 5: Commissioner Yahn indicated Commissioner Kenney attended a meeting with Hornblower, and he attended a meeting with Electra Cruises. The meetings concerned best practices for charter and commercial boat operations in the Harbor, marine sanitation for vessels, and berthing of vessels.

Functional Area 6: Chair Blank had no update.

In answer to Commissioner Beer's inquiry, Assistant City Manager Jacobs advised that a Commissioner not part of a subcommittee may not contact any of the Commissioners on the subcommittee regarding the business of the subcommittee under the Brown Act. A Commissioner may comment or ask questions of subcommittee members during a Commission hearing.

**5. Harbormaster Update – June 2019**

The Harbormaster is responsible for on-water management of the City's moorings, the Marina Park Marina, and code enforcement on the water. This report will update the Commission on the Harbor Department's activities for June 2019.

**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.
- 2) Receive and file.

Harbormaster Borsting reported the Harbor Department held an abandoned vessel auction on June 5 and sold 15 of 33 vessels for a total of \$1,005. The Harbor Department held its auction simultaneously with the Orange County Sheriff's Department auction to share resources and potential bidders. Signs have been replaced at the Balboa Island bridge, and staff is actively searching for other signs that need replacing. In 2018, six sandline moorings were popular options for visiting boaters; however, vessels moored in the area extended into the navigational channel, and the public raised concerns about the moorings. A search for alternative locations was not successful. Five of the six sandline moorings have been removed, and the sixth mooring will be removed when the vessel on it is removed or the legal proceedings regarding the vessel are resolved. As an alternative, staff has reserved City moorings for visiting vessels and meets the vessels at the moorings to assist with tying the vessel to the two can system. In June, Harbormaster Borsting attended a regional meeting of the California Association of Harbormasters and Port Captains. At the meeting, he learned that many of the participants service moorings and dredge in-house. He will attend the group's annual conference in September. Staff received 15 responses to the Marina Park guest survey, 67 percent of whom were visitors, 26 percent were local boaters, and 6 percent were other. All responses were either strongly satisfied or satisfied with their stay. One respondent strongly disagreed with the statement that he received quality in value for the cost because of pricing. All respondents were satisfied with the appearance and condition of guest slips. Almost 100 percent of respondents strongly agreed with the statement regarding Harbor staff. All respondents indicated they utilized shower facilities. A low

percentage of respondents utilized the pumpout service and the washer/dryer amenity. All respondents either strongly agreed or agreed that they will return or tell their friends about Marina Park. Staff is following up regarding written comments about the condition of restrooms. During June, Marina Park had 106 reservations with a year-to-date total of more than 1,100 reservations. Almost 3,300 nights have been reserved at Marina Park over the prior year. Use of the mooring fields for short-term stays continues to be strong.

In answer to Commissioner Marston's query, Assistant City Manager Jacobs advised that the report of lifeguard statistics is compiled from the computer-aided dispatch (CAD) system. Lifeguards respond to after-hour calls regarding complaints and nuisances. A lifeguard takes a preventive action when he directs someone to take or cease a particular action in order to prevent potential harm. An assist is a lifeguard making physical contact with someone to provide assistance.

In reply to Commissioner Yahn's inquiries, Harbormaster Borsting explained that the year-to-date totals are based on the fiscal year of July 1 to June 30. Sub-permittee numbers are generally down because of the change in the rate structure. Marketing the different amenities and fees for Marina Park, the mooring fields, and the anchorages may increase usage. Harbormaster Borsting believed the new fee structure was effective January 1, 2019. Commissioner Yahn expressed interest in reviewing statistics regarding revenue generated by a high number of users at lower rates compared to a low number of users at higher rates.

In response to Commissioner Beer's question, Harbormaster Borsting reported staff has seen increased bridge jumping activity and is engaged in outreach. Public information elements such as the markers remain in place. Lifeguards are staffing some of the bridge areas. Assistant City Manager Jacobs added that the City Manager approved additional staffing for the Lido bridge. The Fire Department has reported bridge jumping begins soon after lifeguards leave the area. Consequently, the Fire Department is varying the hours staff is present at bridges in an effort to minimize activity.

Harbormaster Borsting felt the reports do not accurately reflect all of staff's field activities. Staff will review and change processes for collecting and reporting data.

In reply to Commissioner Yahn's question, Harbormaster Borsting indicated staff uses a software platform that is essentially a system for work orders. Items that are subject to follow up should be input into the software. Inputting items that are not subject to follow up is overly cumbersome, and a tally sheet would be more appropriate for collecting data for this type of task.

Chair Blank requested staff indent New Cases and Closed Cases under Code Enforcement in the Harbor Department Statistics to indicate the two are subsets of Code Enforcement. Harbormaster Borsting agreed to do so.

#### **7) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)**

Vice Chair Cunningham and Commissioner Beer advised that they would not be present for the August meeting of the Harbor Commission. However, Commissioner Beer will attempt to participate remotely.

Chair Blank noted the Governor's Cup would begin the following Tuesday.

#### **8) QUESTIONS AND ANSWERS WITH STAFF ON HARBOR-RELATED ISSUES**

In response to Vice Chair Cunningham's inquiry, Assistant City Manager Jacobs reported the Arts Commission and the Library Board of Trustees meet at 5:00 p.m. The Water Quality Committee and the Finance Committee meet at 3:00 p.m. The Homeless Task Force meets at 4:00 p.m. Vice Chair Cunningham proposed the Harbor Commission consider meeting earlier in the day.

In reply to Chair Blank's question, Assistant City Manager Jacobs understood commercial charter vessels could not utilize public piers to pick up and drop off passengers. Commissioner Kenney indicated the prohibition could be found in Section 17.10 of the Code and the Marine Activities Permit.

9) **MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)**

Commissioner Kenney requested an item for the subcommittee's recommendations for Sections 17.40-17.70 of the Harbor Code.

Assistant City Manager Jacobs reported she would prepare an item for Title 17 revisions with the Legal Department's most recent comments and the subcommittee's recommendations for revisions to Sections 17.40-17.70 of Title 17. If the Harbor Commission approves recommendations in August, the recommendations could be presented to the Council on September 10 during a study session. Depending on Council and public comments, the first reading of an ordinance could occur on September 24 with a second and final reading on October 8.

Commissioner Kenney suggested the Harbor Commission review Sections 17.01-17.30 with respect to comments from the Legal Department as the Harbor Commission has approved recommendations for Sections 17.01-17.30. Separately, the Harbor Commission may consider the subcommittee's recommendations for Sections 17.40-17.70. Commissioner Kenney requested the first reading of an ordinance not occur on September 24 as he wanted to attend the first reading but would not be available on that date.

Chair Blank concurred with Commissioner Kenney's suggestion.

Commissioner Kenney clarified that subcommittee recommendations for Section 17.10 will not be ready for the August meeting.

10) **DATE AND TIME FOR NEXT MEETING: Wednesday, August 14, 2019**

11) **ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:28 p.m.



# CITY OF NEWPORT BEACH

## Harbor Commission Staff Report

August 14, 2019  
Agenda Item No. 6.1

**TO:** HARBOR COMMISSION

**FROM:** Kurt Borsting, Harbormaster – 949-270-8158,  
kborsting@newportbeachca.gov

**PREPARED BY:** Chris Miller, Public Works Administrative Manager – 949-644-3043,  
cmiller@newportbeachca.gov

**TITLE:** Residential Dock Reconfiguration at 1708-1710 South Bay Front

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### **ABSTRACT:**

The applicants at 1708 & 1710 South Bay Front are proposing to reconfigure their shared residential dock in a similar U-shape configuration. The proposed float will extend the same 15 feet beyond the pierhead line as it does in the current configuration. Council Policy H-1 generally allows floats to extend to the pierhead line, but the policy also allows the Harbor Commission to grant exceptions as to how far a float may extend beyond the pierhead line if specific findings are made. The applicant therefore, requests the Harbor Commission to approve the proposed dock configuration (Project).

### **RECOMMENDATION:**

- 1) Conduct a public hearing;
- 2) Find the Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
- 3) Approve the Project at 1708-1710 by making specific findings to allow the float to extend beyond the pierhead line by 15 feet pursuant to the provisions within Council Policy H-1.

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

Newport Beach Municipal Code (NBMC) Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council Policy H-1. In other words, staff may approve dock reconfiguration projects if the floats extend to the pierhead line and if the projects also conform to the City's rules concerning dock construction including the City's Harbor Design Criteria.

Council Policy H-1 (Attachment A) provides that the Harbor Commission shall consider for approval, conditional approval or denial, of the application based on certain requirements. All applications require Harbor Commission consideration regardless of whether or not the float had

previously been permitted for an extension. A public hearing is required, and staff shall include a recommendation with supporting materials for the Harbor Commission. The Harbor Commission may approve, or conditionally approve a permit if the Harbor Commission makes specific factual findings in each category of exceptions listed below:

- 1) The existing pier or float is already physically encroaching beyond the pierhead line.
- 2) The existing pier or float was legally permitted to encroach beyond the pierhead line.
- 3) The pier or float will not result in an increase in the physical encroachment beyond the pierhead line that is greater than the existing encroachment.
- 4) Any boat utilizing the pier or float will not extend beyond the project line or line at which it would currently be allowed, whichever is greater.
- 5) The pier or float will:
  - i. Preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Bay;
  - ii. Maintain or enhance public access to the harbor water and waterfront areas;
  - iii. Preserve or enhance the visual character of the harbor; and
  - iv. Not negatively impact adjacent property owners and dredging of the harbor.

## **EXISTING DOCK CONFIGURATION**

Attachment B shows the relationship of the current float to the adjacent neighbors, channel and the Balboa Yacht Club mooring field.

The existing dock system is shared between 1708 and 1710 South Bay Front. The City issues a pier permit to each resident of the shared pier and bills each resident exactly 50%. How the pier is maintained and managed is decided between the residents themselves.

Attachment C shows the existing approved plans from February 2000 with the floats extending 15 feet beyond the pierhead line.

The existing dock system is 979 square feet. NBMC Section 17.35.060(A) and (B) addresses piers on Balboa Island.

“...Any revision of an existing pier or float shall be in strict conformance with the section and shall not be approved if the addition or revision would, in comparison to the existing structure, further restrict or impair the public’s use of the bay or beach in the vicinity of the pier or floats.

Revision to the existing structures shall be limited to the following:

- 1) The overall square footage of the revised structure shall be equal to or less than the square footage of the permitted structure;

- 2) The revised structure does not extend beyond the City permit line (the U.S. pierhead line or such bayward extension of the permit area that is permitted by the section or the Council policy); and
- 3) The revised structure is wholly within the original permitted area as specified in the existing permit on file with the City.”

## **PROPOSED PROJECT**

Attachment D is the Project plan which conforms to the Harbor Design Criteria. It is 958 square feet, and it extends the same distance bayward (15 feet) as the existing dock system, therefore satisfying the requirements of 17.35.060.

Of particular interest in this section of the harbor, NBMC 17.25.020(C)(2) states that docks between Bulkhead Station No. 256 beginning at Collins Avenue and ending at Bulkhead Station No. 255 shall not extend more than fifteen feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less. (See Attachment E.) This rule was established in 2003 to address larger vessels extending beyond the float into the adjacent and unusually narrow channel.

Because this is a shared pier between 1708 and 1710 South Bay Front, staff requires that both joint owners approve the plans. See Attachment F.

## **STAFF RECOMMENDATION AND FINDINGS**

Staff recommends approval of the Project. Council Policy H-1 allows the Harbor Commission to approve a permit for a pier or float to extend beyond the pierhead line if specific factual findings are made. Staff recommends the Harbor Commission make the following findings in support of their approval, though the Harbor Commission may make additional findings as necessary.

**Finding No. 1:** Section 17.50.040(A) and (B)(1). The Project conforms to the provisions of the NBMC, Harbor Design Criteria, and applicable standards and policies in conjunction with plan reviews by the Public Works Department.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities.

**Finding No. 2:** Council Policy H-1 (1). The existing pier or float is already physically encroaching beyond the pierhead line.

Facts in Support of Findings: The existing dock system extends 15 feet beyond the pierhead line.

**Finding No. 3:** Council Policy H-1 (2). The existing pier or float was legally permitted to encroach beyond the pierhead line.

Facts in Support of Findings: The existing dock system was permitted by the City in February 2000 as evidenced by the attached stamped drawing. Floats were permitted to extend beyond the pierhead via the version of Council Policy H-1 in effect at the time.

**Finding No. 4:** Council Policy H-1 (3). The pier or float will not result in an increase in the physical encroachment beyond the pierhead line that is greater than the existing encroachment.



Facts in Support of Findings: The Project encroaches 15 feet beyond the pierhead line which is the same distance that the existing dock encroaches.

**Finding No. 5:** Council Policy H-1 (4). Any boat utilizing the pier or float will not extend beyond the project line or line at which it would currently be allowed, whichever is greater.

Facts in Support of Findings: NBMC Section 17.25.020(C)(2) states that between Bulkhead Station No. 256, beginning at Collins Avenue to Bulkhead Station No. 255, boats moored at a pier or slip shall not extend more than 15 feet bayward from the end of the pier or slip or more than the width of the beam of the boat, whichever is less. This specific rule for most of South Bay Front has been in effect since 2003 covering both the existing and proposed pier configuration.

**Finding No. 6:** Council Policy H-1 (5)(i). The pier or float will preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Bay.

Facts in Support of Findings: The Project is substantially the same configuration as the existing U-shape float, and the float can accommodate approximately the same number of vessels.

**Finding No. 7:** Council Policy H-1 (5)(ii). The pier or float will maintain or enhance public access to the harbor water and waterfront areas.

Facts in Support of Findings: Public access will be maintained because of the current restriction on the distance a vessel may extend beyond the end of the finger floats. In addition, public access on the adjacent beach will not be affected.

**Finding No. 8:** Council Policy H-1 (5)(iii). The pier or float will preserve or enhance the visual character of the harbor.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities.

**Finding No. 9:** Council Policy H-1 (5)(iv). The pier or float will not negatively impact adjacent property owners and dredging of the harbor.

Facts in Support of Findings: The Project conforms to the provisions of the NBMC, applicable policies and the City of Newport Beach Waterfront Project Guidelines and Standards Harbor Design Criteria Commercial and Residential Facilities. The Project is wholly within the prolongation of the property lines of 1708 and 1710 South Bay Front, and maintains the required setbacks. Potential maintenance dredging of the adjacent federal channel will not be affected.

**Finding No. 10:** NBMC Section 17.50.040(B)(3). The Project conforms to the policies and regulations of the certified Local Coastal Program.

Facts in Support of Findings: The Project will not obstruct public access and will have minimal impacts to public coastal views and coastal resources. As indicated above, public access will not be obstructed because of the current restriction on the distance a vessel may extend beyond the end of the finger floats. In addition, public access on the adjacent beach will not be affected. Public coastal views and coastal resources will not be obstructed because the slip is substantially the same size, purpose and capacity as the dock system it replaces.

**ENVIRONMENTAL REVIEW:**

Staff recommends the Harbor Commission find this Project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. CEQA Guidelines Section 15301 (Class 1) applies to the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use." Section 15302 (Class 2) applies to the "replacement or reconstruction of existing structures and facilities where the new structures will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced[.]" The replacement residential dock system is in the same location and is substantially the same size, purpose and capacity as the dock system it replaces. The overwater coverage of the new dock system decreased from 979 square feet to 958 square feet. The float remains as a U-shaped, though it is wider.

**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). This public hearing was noticed to all residents within a 300' radius per NBMC 21.62.020(B)(2)(c) and to the immediately adjacent onshore mooring permittees. The notice was also published in the newspaper. See Attachment G.

**ATTACHMENTS:**

- Attachment A - Council Policy H-1
- Attachment B - Aerial Photos
- Attachment C - Existing Approved Plans and Configuration
- Attachment D - Proposed Configuration
- Attachment E - Vessel Overhang Rule
- Attachment F - Joint Owner Approval
- Attachment G - Public Outreach

## **HARBOR PERMIT POLICY**

### ***Background***

Newport Beach Municipal Code Section 17.35.030(A) provides that piers and floats may not extend beyond the pierhead line unless approved by Council policy.

### ***Policy***

Consistent with Title 17's purposes described in Newport Beach Municipal Code Section 17.05.020, the City Council's general policy is not to approve piers and floats beyond the pierhead line. Limited exceptions exist as described in this Policy, but the Harbor Commission is directed to use this general policy and the underlying purposes of Title 17 as a default rule that can only be excepted by making specific findings concerning such exceptions.

The proper procedure for determining whether such exceptions exist is to hold a public hearing in front of the Harbor Commission with a staff report that includes a staff recommendation and accompanying materials that shall include, but are not limited to, the application and materials supporting the staff recommendation. The Harbor Commission shall consider the City's general policy as articulated herein and shall make specific factual findings as to each of the categories of exceptions.

The applicant, or any interested person, shall have the right to appeal the Harbor Commission's decision to the City Council in accordance with Chapter 17.65 of the Municipal Code. Any individual City Council Member shall also have the right to call for review the Harbor Commission's decision to the City Council in accordance with Chapter 17.65.

The Harbor Commission, or the City Council considering an appeal or call for review, may approve or conditionally approve a permit for a pier or float to extend beyond the pierhead line if it is determined that: (1) the existing pier or float is already physically encroaching beyond the pierhead line; (2) the existing pier or float was legally permitted to encroach beyond the pierhead line; (3) the pier or float will not result in an increase in the physical encroachment beyond the pierhead line that is greater than the existing encroachment; (4) any boat utilizing the pier or float will not extend beyond the project line or line at which it would currently be allowed, whichever is greater; and (5) the pier or float will (i) preserve the diverse uses of the harbor and the waterfront that contribute to the charm and character of Newport Bay, (ii) maintain or enhance public access to the harbor water and waterfront areas, (iii) preserve or enhance the visual character of the

harbor, and (iv) not negatively impact adjacent property owners and dredging of the harbor.

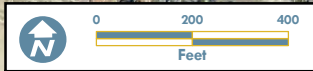
Any permit issued by the City of Newport Beach before June 26, 2019, which allows an existing pier or float to extend beyond the pierhead line, is ratified by the City Council and may continue as valid until such time as a new permit for a pier or float is approved and the pier or float is constructed pursuant to the new permit.

### *History*

Adopted H-1 - 6-1-1964  
 Amended H-1 - 10-19-1964  
 Amended H-1 - 10-26-1964  
 Amended H-1 - 4-27-65  
 Reaffirmed H-1 - 8-30-1966  
 Amended H-1 - 1-9-1967  
 Amended H-1 - 7-24-1967  
 Amended H-1 - 6-24-1968  
 Amended H-1 - 8-19-1968  
 Amended H-1 - 12-23-1968  
 Amended H-1 - 1-26-1970  
 Reaffirmed H-1 - 3-9-1970  
 Reaffirmed H-1 - 2-14-1972  
 Amended H-1 - 8-14-1972  
 Amended H-1 - 6-25-1973  
 Reaffirmed H-1 - 12-10-1973  
 Amended H-1 - 12-17-1973  
 Amended H-1 - 6-10-1974  
 Reaffirmed H-1 - 11-11-1974  
 Amended H-1 - 3-10-1975  
 Amended H-1 - 4-28-1975  
 Amended H-1 - 5-27-1975  
 Amended H-1 - 10-28-1975  
 Amended H-1 - 12-8-1975  
 Amended H-1 - 5-10-1976  
 Amended H-1 - 10-26-1976  
 Amended H-1 - 11-22-1976  
 Reaffirmed H-1 - 1-24-1977  
 Amended H-1 - 5-23-1977  
 Amended H-1 - 5-22-1978  
 Amended H-1 - 12-11-1978

Amended H-1 - 3-12-1979  
Amended H-1 - 6-25-1979  
Amended H-1 - 6-9-1980  
Amended H-1 - 6-23-1980  
Amended H-1 - 11-23-1981  
Amended H-1 - 6-28-1982  
Amended H-1 - 10-12-1982  
Amended H-1 - 10-25-1982  
Amended H-1 - 6-27-1983  
Amended H-1 - 1-14-1985  
Amended H-1 - 3-25-1985  
Amended H-1 - 6-24-1985  
Amended H-1 - 6-22-1987  
Amended H-1 - 6-13-1988  
Amended H-1 - 11-28-1988  
Amended H-1 - 6-26-1989  
Amended H-1 - 9-25-1989  
Amended H-1 - 11-27-1989  
Amended H-1 - 5-14-1990  
Amended H-1 - 6-25-1990  
Amended H-1 - 4-8-1991  
Amended H-1 - 6-24-1991  
Amended H-1 - 10-28-1991  
Reaffirmed H-1 - 1-24-1994  
Amended H-1 - 6-27-1994  
Amended H-1 - 6-26-1995  
Amended H-1 - 3-25-1996  
Amended H-1 - June 8, 1998  
Amended H-1 - 12-14-1998  
Amended H-1 - 5-8-2001  
Amended H-1 - 9-10-2002  
Amended H-1 - 10-28-2003  
Amended H-1 - 4-13-2004  
Amended H-1 - 1-8-2008  
Amended H-1 - 5-22-2018  
Amended H-1 - 6-25-2019












# 1708-1710 Bay Front S

<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> 1708-1710 Bay Front S	<span style="border-bottom: 2px dashed yellow; width: 20px; display: inline-block;"></span> Bulkhead Line
<span style="border: 2px dashed red; width: 20px; height: 10px; display: inline-block;"></span> Mooring Fields	<span style="border-bottom: 2px dashed yellow; width: 20px; display: inline-block;"></span> Pierhead Line
	<span style="border-bottom: 2px solid red; width: 20px; display: inline-block;"></span> Project Line

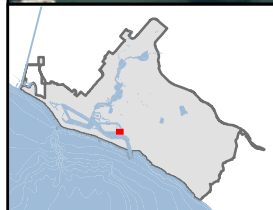
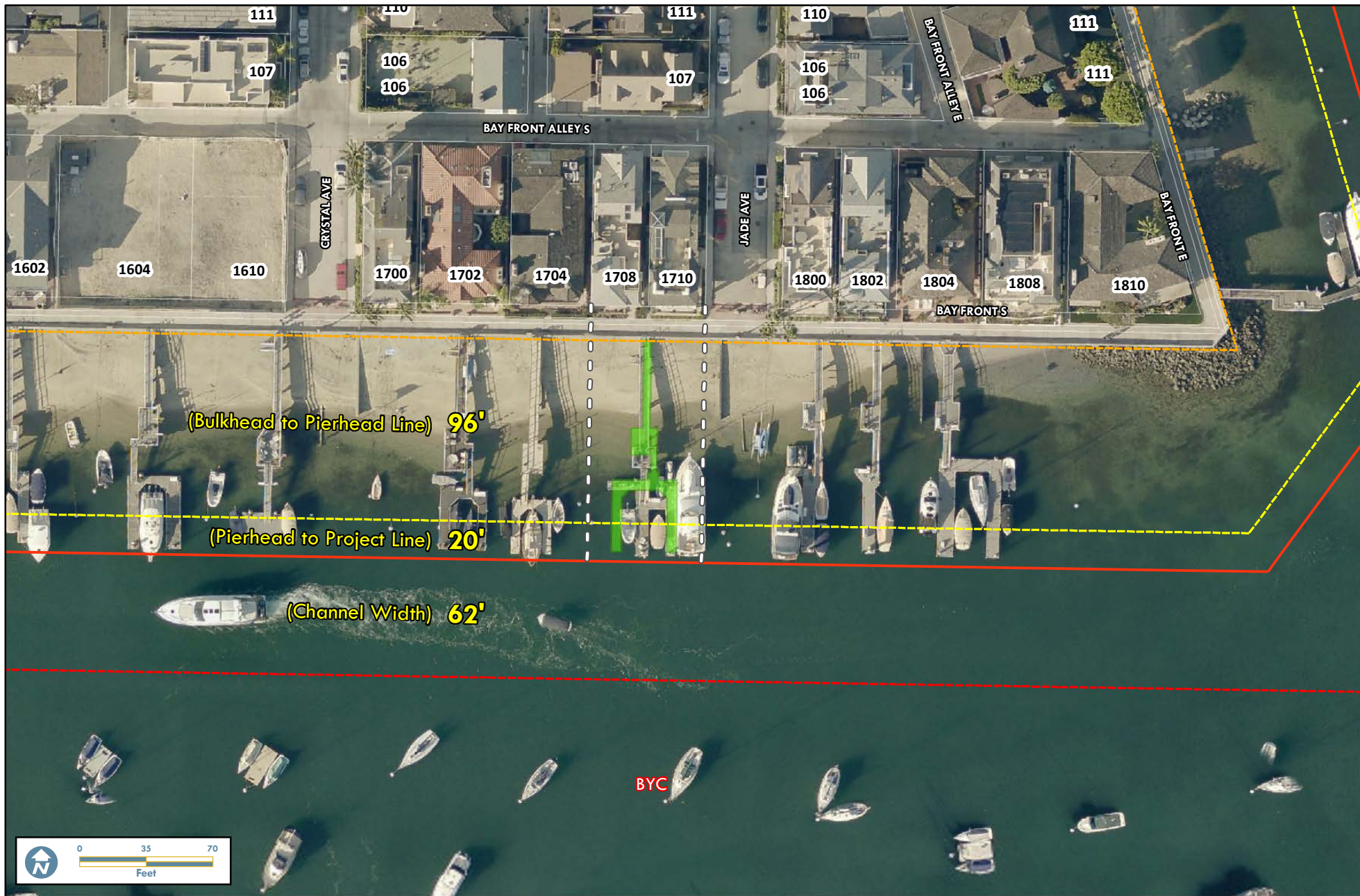




# 1708-1710 Bay Front S

- 
-  1708-1710 Bay Front S      Bulkhead Line  
 Mooring Fields      Pierhead Line  
 Proposed Dock      Project Line  
 Property Line Extension





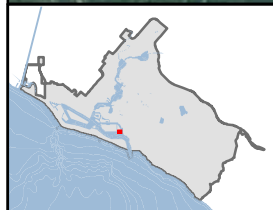
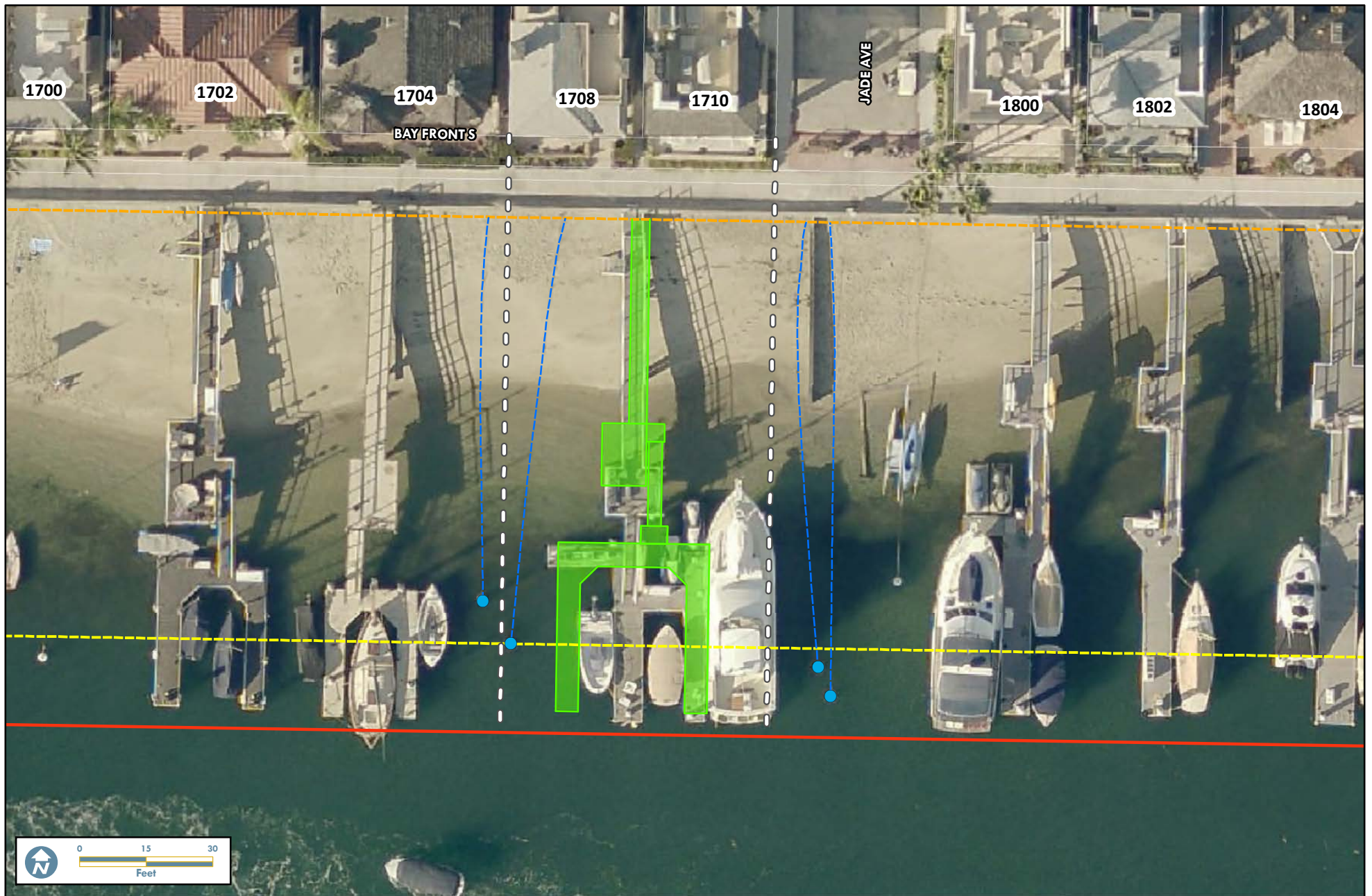
## 1708-1710 Bay Front S

- Bulkhead Line
- Pierhead Line
- Project Line
- Property Line Extension
- Mooring Fields
- Proposed Dock



City of Newport Beach  
GIS Division  
August 07, 2019





## 1708-1710 Bay Front S

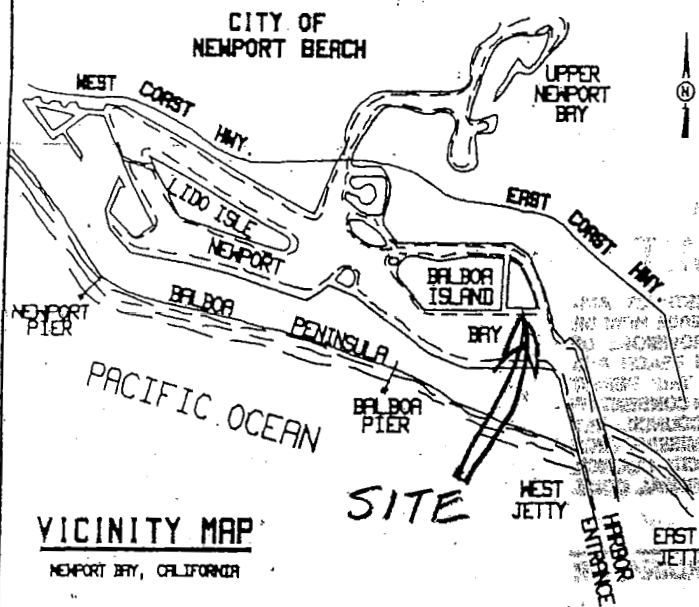
- |                         |                  |
|-------------------------|------------------|
| Bulkhead Line           | On-Shore Mooring |
| Pierhead Line           | Mooring Line     |
| Project Line            | Proposed Dock    |
| Property Line Extension |                  |



City of Newport Beach  
GIS Division  
August 07, 2019

#225-1710

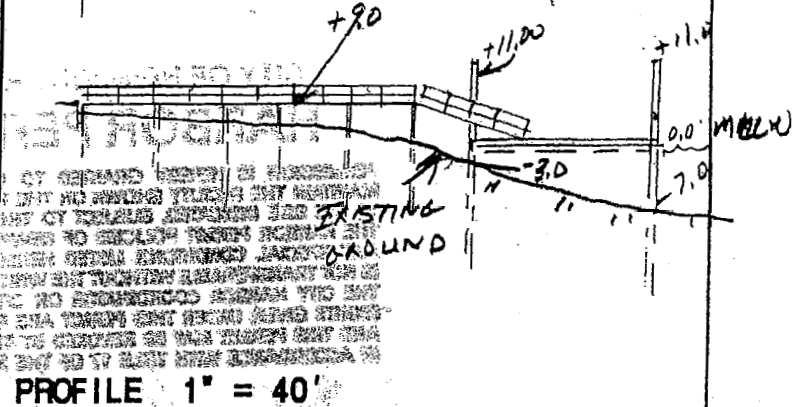
## CITY OF NEWPORT BEACH



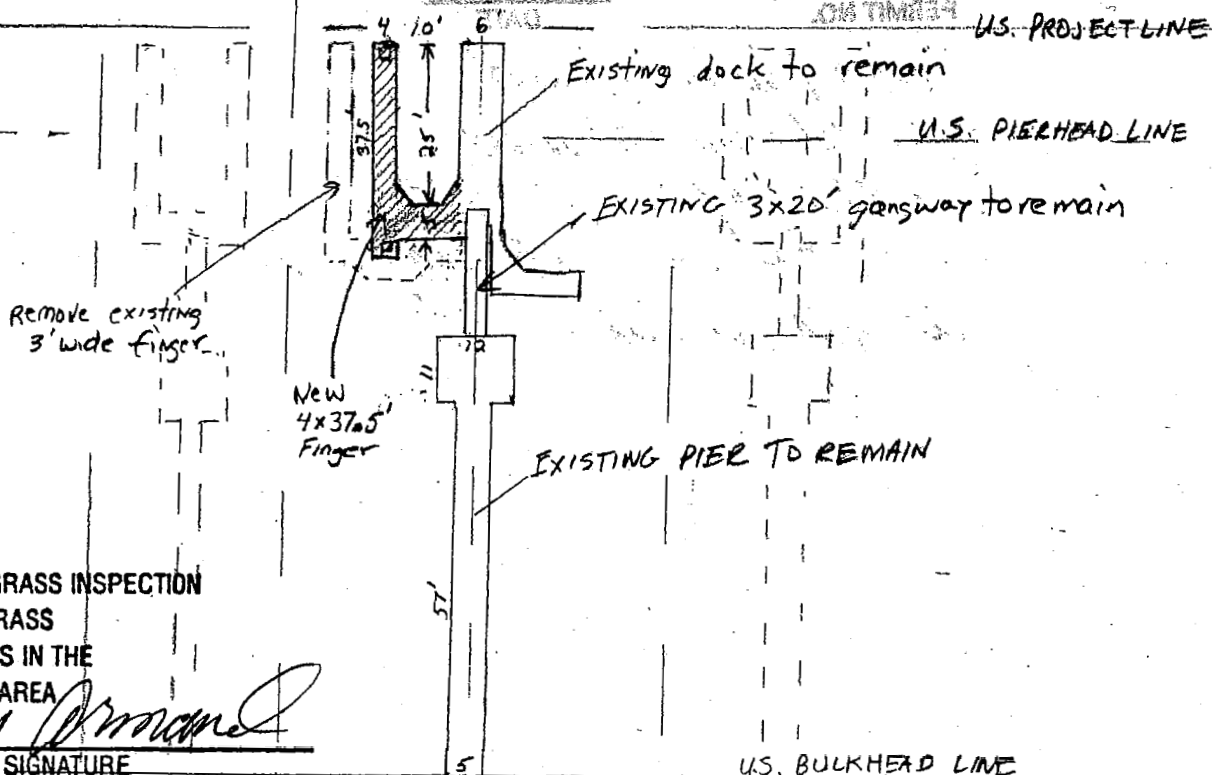
U.S. BULKHEAD LINE

U.S. PIERHEAD LINE

U.S. PROJECT LINE



SOUNDINGS ARE EXPRESSED IN FEET AND DENOTE ELEVATIONS BASED ON MEAN LOWER LOW WATER.



## EEL GRASS INSPECTION

- ☒ NO EEL GRASS
- ☒ EEL GRASS IN THE PROJECT AREA

SIGNATURE

225-1710

PERMIT#

2-2-2000

DATE

30'

30'

"1710"

"1708"

2-2-2000  
FIRE & MARINE DEPT.  
CITY OF NEWPORT BEACH

Note: Remove existing 3' wide finger  
Narrow slip to 10' wide  
Move one 12" square guide pile  
Add one 12" square guide pile  
Widen back walk to 5' from

PLAN VIEW 1" = 30'

APPLICANT'S NAME FRANK HURST

JOB ADDRESS 1710 S. BAYFRONT

DATE 1-25-00



SWIFT SLIP DOCK & PIER BUILDERS, INC

6351 Industry Way, Westminster 92683

Phone: (949) 631-3121

Fax: (714) 509-0618

CLIENT:

Eggert, S./ McIntire, D.

IO

DRAWN:

P.S.

Checked

2.0

REVISION

08/05/19

DATE:

AMENDMENTS:

REV:	DESCRIPTION:	BY:	DATE:
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-	----	-	-
-	----	-	-

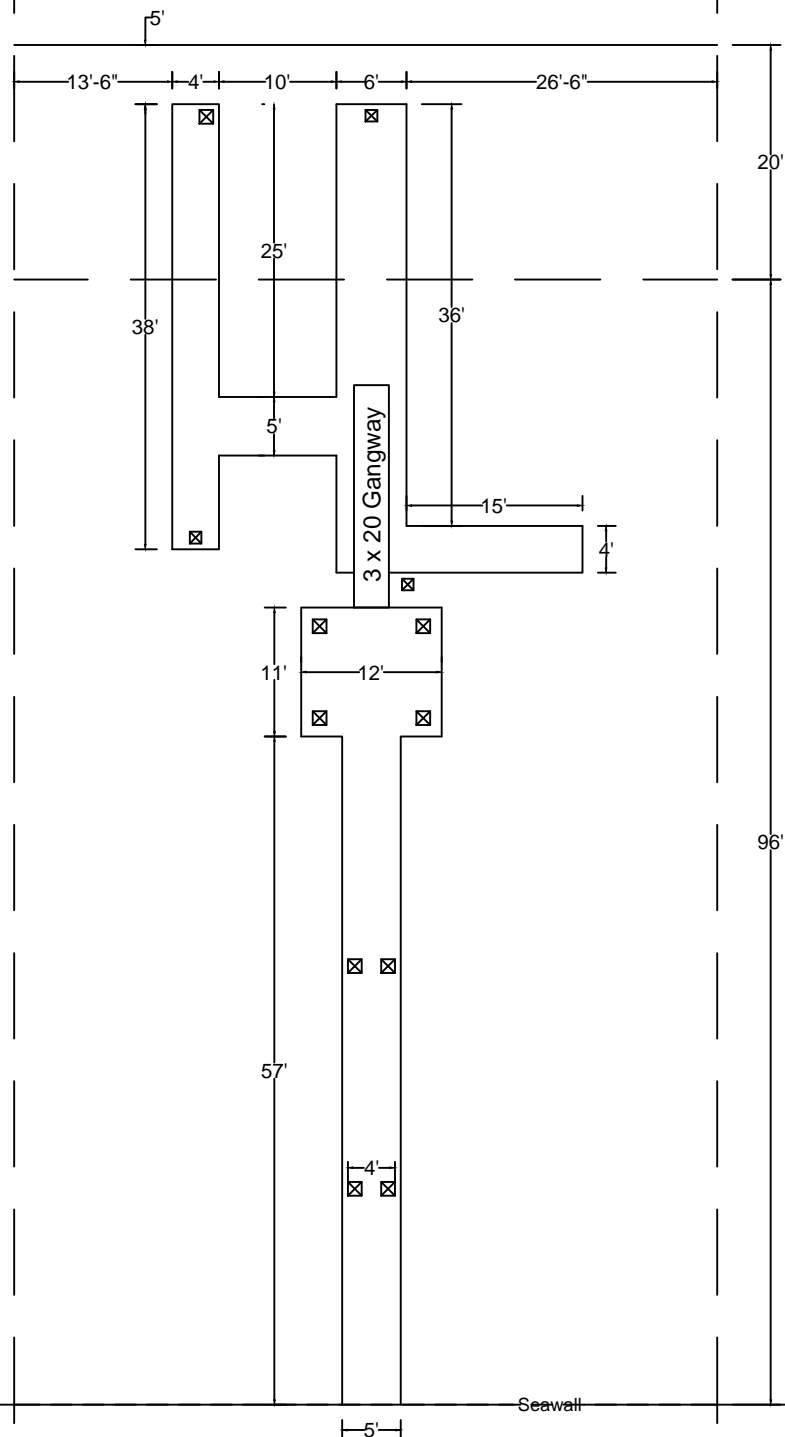
SITE:

1710-1708 S. Bayfront Newport Beach, Ca. Existing

PROJECT LINE

PIERHEAD LINE

BULKHEAD LINE



Floating Dock: 502 sq ft  
38 x 4 = 152 sq ft  
40 x 6 = 240 sq ft  
10 x 5 = 50 sq ft  
15 x 4 = 60 sq ft

Gangway: 60 sq ft  
3 x 20 = 60 sq ft

Pier: 417 sq ft  
57 x 5 = 285 sq ft  
12 x 11 = 132 sq ft

Total Area: 979 sq ft





SWIFT SLIP DOCK &amp; PIER BUILDERS, INC

6351 Industry Way, Westminster 92683

Phone: (949) 631-3121

Fax: (714) 509-0618

CLIENT:

Eggert, S./ McIntire, D.

IO

DRAWN:

P.S.

Checked

2.0

REVISION

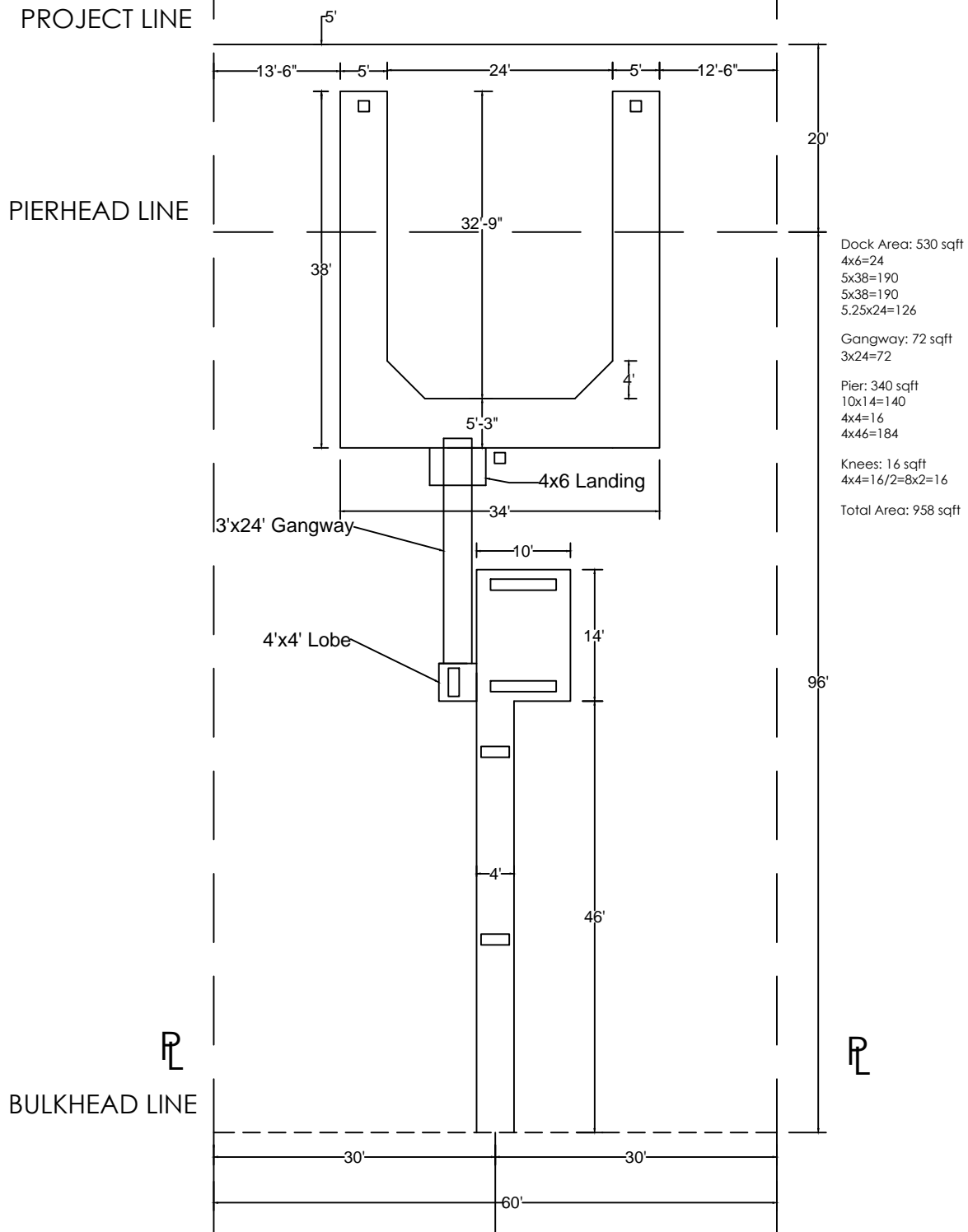
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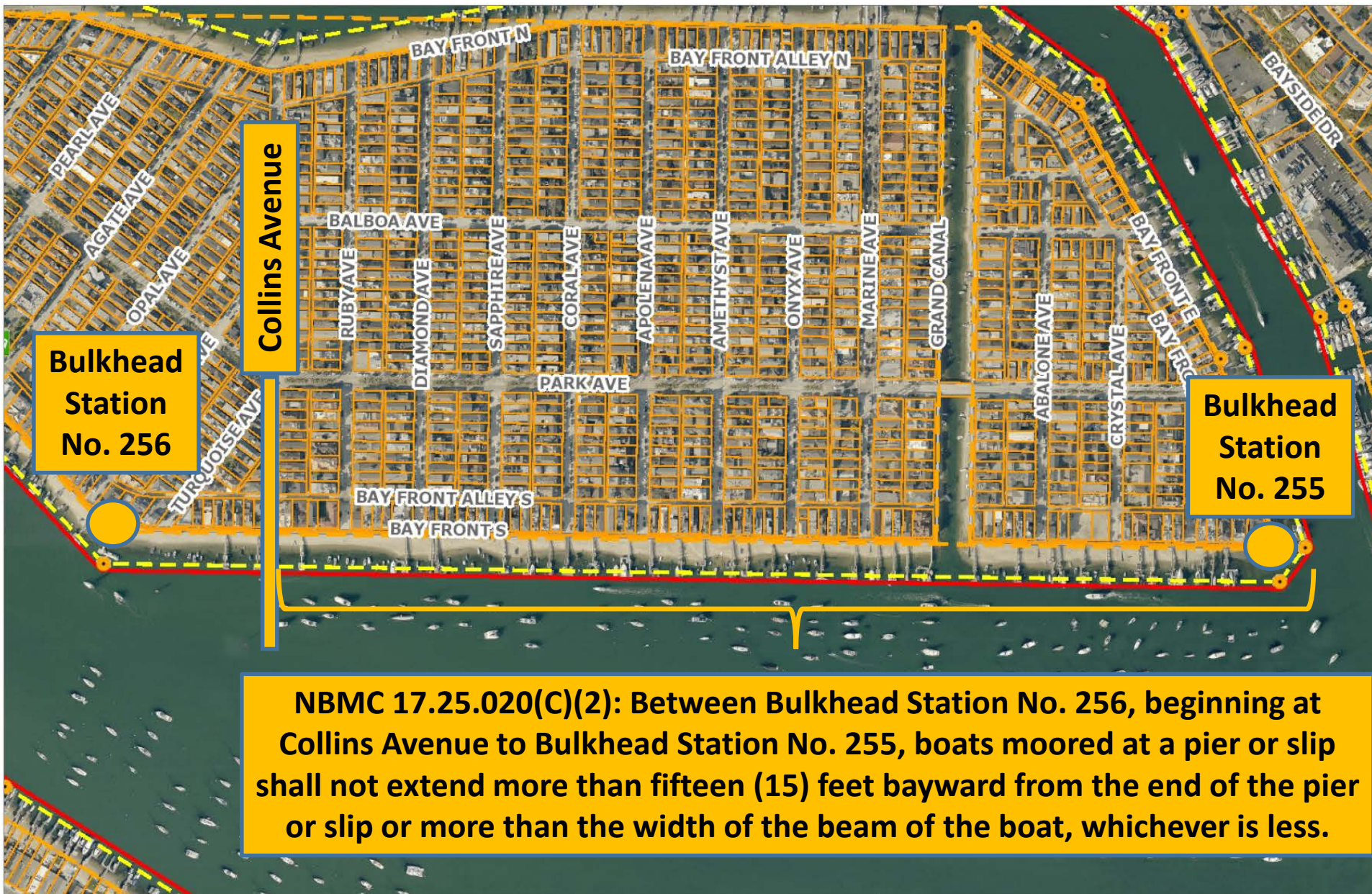
DATE:

AMENDMENTS:

REV:	DESCRIPTION:	BY:	DATE:
-	----	-	-
-	----	-	-
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SITE:

1710-1708 S. Bayfront Newport Beach, Ca. **Proposed**



**NBGiS**  
NEWPORT BEACH



0 417 833  
Feet

**Disclaimer:**

Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

8/5/2019





SWIFT SLIP DOCK &amp; PIER BUILDERS, INC

6351 Industry Way, Westminster 92683

Phone (949) 631-3121

Fax: (714) 509-0618

CLIENT

Eggert, S./ McIntire, D.

IO

DRAWN

P.S.

Checked

1.0

REVISION

02/19/19

DATE

## AMENDMENTS

REV	DESCRIPTION	BY	DATE
-	----	-	-
-	----	-	-
-	----	-	-

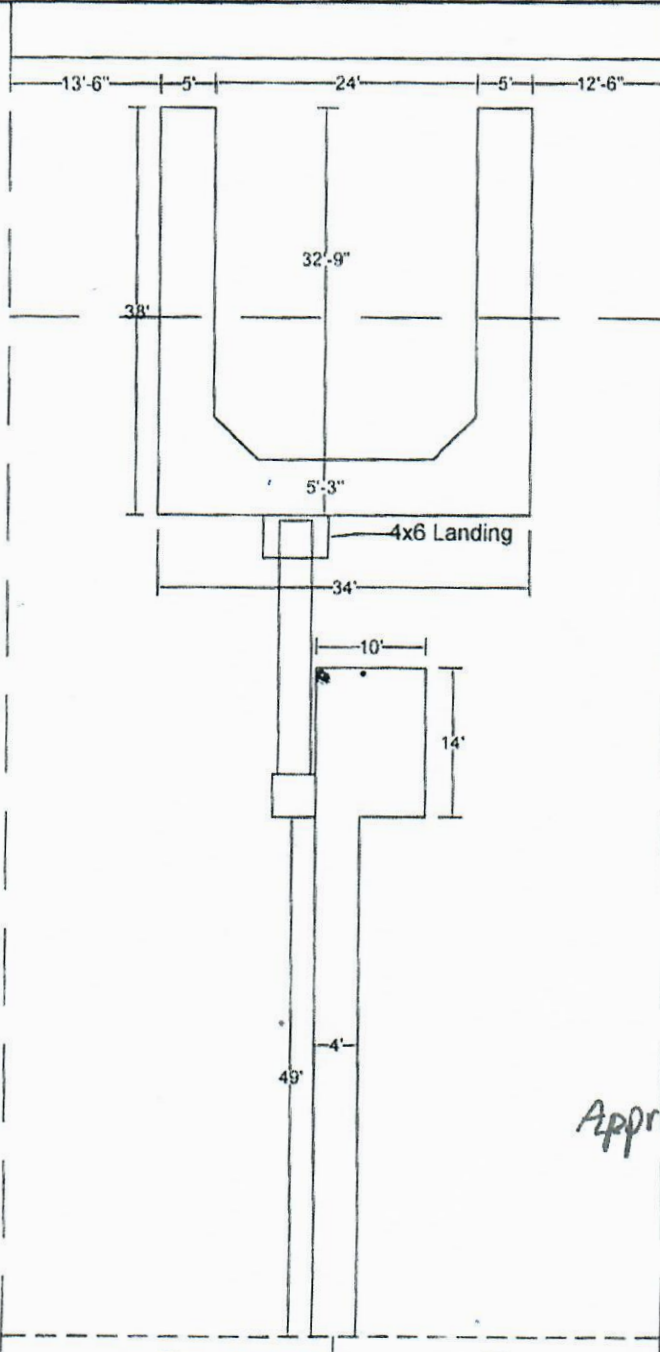
SITE

1710-1708 S. Bayfront Newport Beach, Ca. Proposed

PROJECT LINE

PIERHEAD LINE

BULKHEAD LINE



Dock Area:

4x6=24

5x38=190

5x38=190

5.4x24=129.6

3x24=72

10x14=140

4x4=16

4x49=196

Knees:

4x4=16/2=8x2=16

Total Area: 974.6

Steve Eggert

Approved

Approved: X

Deanna McIntire



## **CITY OF NEWPORT BEACH** **NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that on **Wednesday, August 14, 2019**, at **6:30 p.m.** or soon thereafter as the matter shall be heard, a public hearing will be conducted in the Council Chambers at 100 Civic Center Drive, Newport Beach. The Harbor Commission of the City of Newport Beach will consider approval of the following application:

### **Residential Dock Reconfiguration located at 1708-10 South Bay Front**

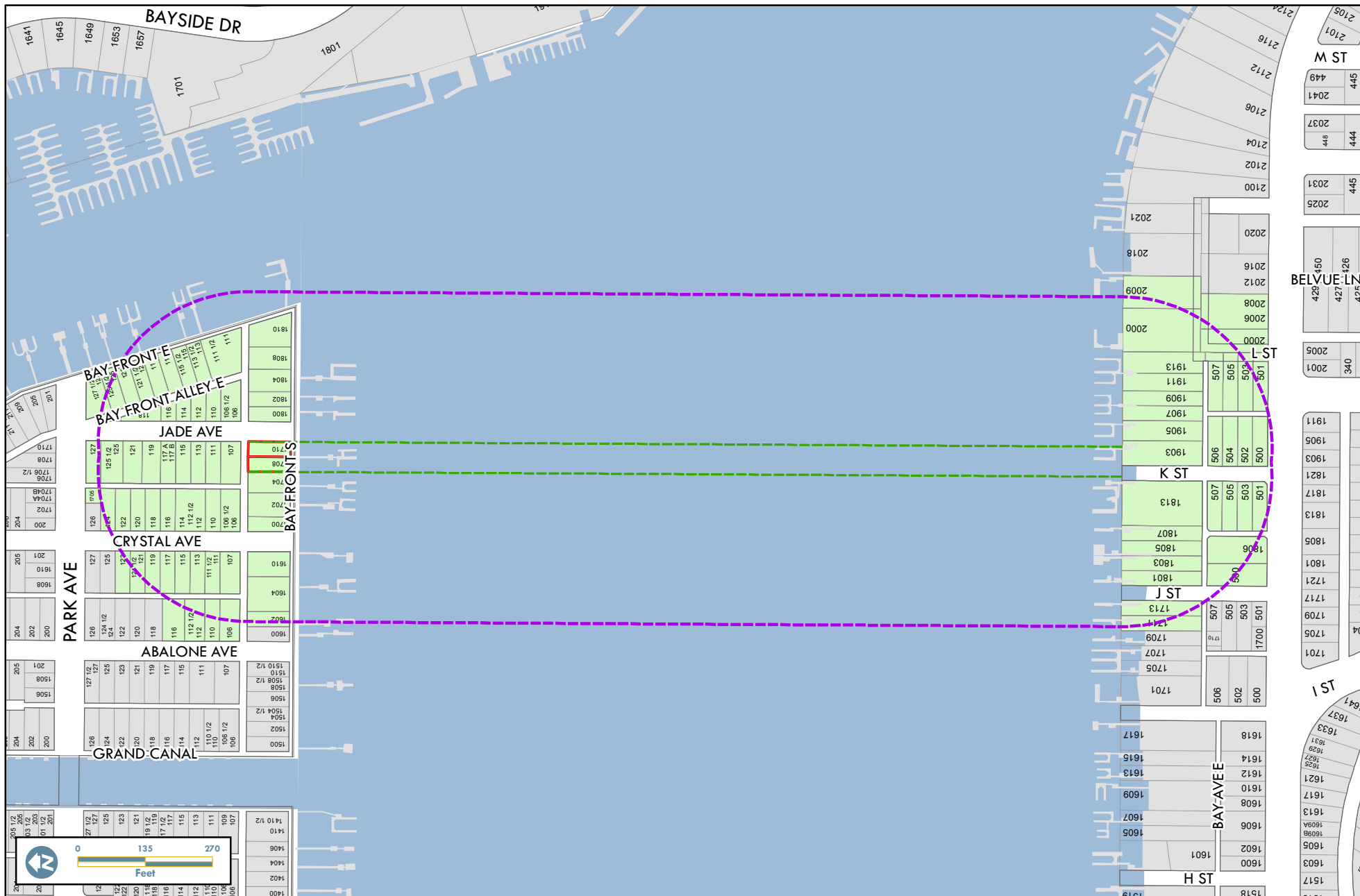
The project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The project will be located on the same site and location as the structure it replaced and will have substantially the same purpose, capacity and size as the structure replaced.

All interested parties may appear and present testimony in regard to this proposal. If you challenge this project in court, you may be limited to raising only those issues you raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapter 17.65. The application may be continued to a specific future meeting date, and if such an action occurs, additional public notice of the continuance will not be provided.

The agenda, staff report, and corresponding documents will be available by end of business day on the Friday preceding the public hearing, and may be reviewed at the City Manager's Office (Bay E-2nd Floor), at 100 Civic Center Drive, Newport Beach, California, CA 92660 or at the City of Newport Beach website at [www.newportbeachca.gov](http://www.newportbeachca.gov). Individuals not able to attend the meeting may contact the Public Works Department or access the City's website after the meeting to review the action on this application. All mail or written communications (including email) from the public, residents, or applicants regarding an agenda item must be submitted by 5 p.m. on the business day immediately prior to the meeting. This allows time for the Harbor Commission to adequately consider the submitted correspondence.

For questions regarding this public hearing item please contact Chris Miller, Administrative Manager, at [cmiller@newportbeachca.gov](mailto:cmiller@newportbeachca.gov).

**Project File No.:** 1047-2019



# 1708 & 1710 Bay Front S

- Prolongation of Lot Lines
- Buffer 300'
- 1708 & 1710 Bay Front S
- Notified Properties



City of Newport Beach  
GIS Division  
July 24, 2019





== CITY OF ==

# 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)

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### **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

17.40 Live-Aboard

17.45 ~~-~~Sanitation

17.50 Harbor Development Permits

17.55 Dredging Permits

17.60 Mooring Extensions – **Proposed New Section**

17.65 ~~-~~Appeals

17.70 Enforcement

Draft Changes for Discussion Purposes Only Attached

17.40.010

#### **Chapter 17.40**

#### **LIVE-ABOARDS**

##### **Sections:**

- 17.40.010 Purpose.**
- 17.40.020 Live-Aboards Prohibited.**
- 17.40.030 Permits Required.**
- 17.40.040 Application for Live-Aboard Permit.**
- 17.40.050 Issuance of Permit.**
- 17.40.060 Term/Renewal.**
- 17.40.070 Conditions/Regulations.**

17.40.080	Use of Pumpout Facilities.
17.40.090	Compliance with Law.
17.40.100	Discharge Log.
17.40.110	Limitation on Number of Permits.
17.40.120	Transfer Prohibited.
17.40.130	Revocation/Cancellation.
17.40.140	Suspension and Revocation.
17.40.150	Procedure for Suspension or Revocation.
17.40.160	Appeal or Call for Review.

#### 17.40.010 Purpose.

The City Council of the City of Newport Beach finds and declares as follows:

A. This chapter will promote the public health, safety and welfare by regulating the number of persons living aboard vessels on offshore moorings and insuring, to the extent possible, that this residential use does not result in the discharge of human waste; activities that are disruptive or impede other parties use and/or enjoyment of the bay; or otherwise adversely impact the health, safety and welfare of those that visit, work around, or live near, the bay. (Ord. 2008-2 § 1 (part), 2008)

#### 17.40.020 Live-Aboards Prohibited.

A. Live-aboards shall not be permitted at piers that are bayward of residentially zoned areas. No person shall live aboard any vessel on an onshore mooring.

B. Live-aboards are prohibited on moorings subject to long-term mooring sub-permits as noted in Section 17.60.040(G).

B.C. Commercial Marinas: Commercial Marinas shall be permitted to have a total of 7% of their slips available for live-aboards. Live-aboards are not permitted bayward of residentially owned properties.

C.D. Live-aboards may be permitted on moorings subject to short-term sub-permits according to Section 17.60.040(G). (Ord. 2010-26 § 4, 2010: Ord. 2008-2 § 1 (part), 2008).

#### 17.40.030 Permits Required.

No person shall live-aboard any vessel assigned to an offshore mooring without first having obtained a live-aboard permit from the Harbormaster. No live-aboard permit shall be issued except to a person holding a valid mooring permit issued pursuant to Chapter 17.60, or any successor chapter. No permit shall be issued to any live-aboard which is not intended to serve as the principal residence of the permittee. For purpose of this section, principal residence shall mean to live-aboard for not less than eight months in any calendar year. (Ord. 2018-17 § 32, 2018: Ord. 2008-2 § 1 (part), 2008)

#### 17.40.040 Application for Live-Aboard Permit.

An application for a live-aboard permit shall be filed with the Harbormaster upon forms provided by the City and shall contain the following information:

A. The name of the permittee and the name(s) of all individuals to be living aboard the vessel;

B. All pertinent information relative to the vessel, including but not necessarily limited to, the

name of the vessel, the registration number of the vessel assigned by the Department of Motor Vehicles or the United States Coast Guard, the make and model of the vessel, the length of the vessel;

C. The make, model, and holding tank capacity of the marine sanitation device installed in the vessel;

D. The address and phone number, emergency contact information and email address where the permittee or other adult living aboard can be contacted during regular work hours or when not occupying the vessel;

E. Other information the Harbormaster reasonably believes is necessary or helpful to the efficient administration of the provisions of this chapter.

Applications will be accepted only from persons holding a valid mooring permit issued pursuant to Chapter 17.60 of the Newport Beach Municipal Code or valid rental agreement from a commercial marina. All applications shall be accompanied by a fee established by resolution of the City Council, but the fee shall not exceed the cost to the City of administering this chapter. The submittal of an application for live-aboard shall be deemed consent by the owner of the vessel to any inspection necessary to confirm the accuracy of the information in the application. (Ord. 2018-17 §§ 33, 34, 2018; Ord. 2008-2 § 1 (part), 2008)

#### 17.40.050 Issuance of Permit.

Upon receipt of an application for a live-aboard permit, the Harbormaster shall investigate the information contained in the application as well as other information on record available to the City. The Harbormaster shall deny the application if:

- A. The vessel which will serve as the principal residence ~~will serve as the principal residence~~ is not equipped with a fully operational marine sanitation device and holding tank sufficient in capacity to insure no discharge of human waste into the harbor;
- B. Approval of the application would result in live-aboard permits in excess of the limitations provided by this chapter;
- C. Issuance of the permit, given the specific circumstances of the application, would significantly impact persons residing, working or visiting the bay;
- D. The vessel is incapable of safely maneuvering under its own power, whether by sail or engine, from the mooring to the open waters of the Pacific Ocean and back to the mooring. (Ord. 2018-17 § 35, 2018; Ord. 2008-2 § 1 (part), 2008)

#### 17.40.060 Term/Renewal.

- A. Permits issued pursuant to this chapter shall be valid for a term of twelve (12) months. Applications for the renewal of any permit shall be submitted at least sixty (60) days before expiration of the permit, on forms supplied by the City, shall include the fee established by resolution of the City Council and shall specify any changes to the information provided on the original application for a permit.
- B. The application for renewal shall be denied for any of the reasons specified in Section 17.40.050; the permittee has failed to comply with any provision of this title during the term of the previously issued permit; or the permittee has failed to use the vessel as permittee's principal residence during previous term of the permit.; or the permittee has failed to use the vessel as permittee's principal residence during the previous term of the permit.
- C. The issuance of a live-aboard permit is nontransferable and does not create any tenancy between the City and permittee or other persons living aboard, nor does it

create any property right to the mooring site. (Ord. 2013-11 § 158, 2013; Ord. 2008-2 § 1 (part), 2008)

#### **17.40.070 Conditions/Regulations.**

A. The Harbormaster may impose such conditions on the permit as are reasonably necessary to insure that the activities of the permittee comply with the provisions of this chapter. Such conditions shall include but are not limited to:

1) All vessels subject to a live-aboard permit shall have an operable marine sanitation device and holding tank pre-approved by the Harbormaster. 2) By obtaining a live-aboard permit, the permittee specifically authorizes the Harbormaster or his or her designee to board the subject vessel any time based upon reasonable suspicion to inspect the marine sanitation device and holding tank and install a dye tablet to determine whether there is any discharge from the same.

A.B. —The Harbormaster shall have the power to promulgate rules and regulations to insure that the purposes of this chapter are satisfied. Each permittee shall comply with these rules and regulations. Compliance shall be considered a condition to each live-aboard permit. (Ord. 2018-17 § 36, 2018; Ord. 2008- 2 § 1 (part), 2008)

#### **17.40.080 Use of Pumpout Facilities Disposal of Trash.**

Permittees shall use pumpout facilities on a regular basis or otherwise discharge human waste in a legal manner. The permittees and others living aboard pursuant to permit shall not deposit any garbage or trash in the bay or on property surrounding the bay except in trash receptacles owned and maintained by the City of Newport Beach or its contractors. (Ord. 2008-2 § 1 (part), 2008) Disposal of oversized items; e-waste, oils, fuels, chemicals, or other such liquids; not appropriate for disposal in trash receptacles owned and maintained by the City of Newport Beach or its contractors, shall be properly hauled off and properly disposed of by the permittee. Use of City owned trash receptacles must comply with any recycling initiative or other such waste material separation program instituted by the City.

#### **17.40.090 Compliance with Law.**

The permittee, and others authorized to live-aboard any vessel, shall comply with all applicable State and Federal laws, the provisions of the Newport Beach Municipal Code, and all conditions, express and implied, to the permit. Failure to comply with these laws, ordinances, or policies shall constitute grounds for revocation of the permit. (Ord. 2008-2 § 1 (part), 2008)

#### **17.40.100 Discharge Log.**

Each permittee shall maintain a log for the use of pumpout facilities, or commercial pumpout services. The log shall contain the date, time, and location waste was discharged. The discharge log and any supporting material from commercial putout service providers (such as company issued service records, service invoices, etc.) shall be available for inspection by the Harbormaster at all reasonable hours and upon request. The log and all supporting documentation shall be submitted to the Harbormaster with the renewal application. Each live aboard permittee is required to contract with an authorized commercial pumpout service at a minimum of twice a month. Company records from this commercial pumpout service will be made available to the City for regular review. Permittee will authorize the commercial pumpout service to share all service records with the City upon request. Exceptions may be considered based on specific circumstances with prior approval by the Harbormaster. Failure to comply

may result in revocation of the live-aboard permit and mooring. (Ord. 2018- 17§ 37, 2018: Ord. 2008-2 § 1 (part), 2008) 17.40.110

#### **17.40.110 Limitation on Number of Permits.**

**A.**—The number of live-aboard permits in effect at any given time shall not exceed seven percent of the number of offshore mooring permits and each commercial marina may have up to 7% of the total slips available (30 feet or larger) for live-aboards pursuant to Section 17.40.20 (D) issued by the City pursuant to Chapter 17.60.

**B.A.** The Harbormaster shall establish a waiting list of persons who wish to apply for a live-aboard permit. The waiting list shall consist solely of persons who hold valid mooring permits issued pursuant to the provisions of Chapter 17.60, or any successor chapter. Any person who sells or transfers the vessel, or any ownership interest in the vessel, assigned to a mooring shall be removed from the waiting list. In the event the number of live-aboard permits falls below the limit specified in subsection (A) and subsection (B) of this section, the Harbormaster shall notify the person or persons next in order on the waiting list of the vacancy or vacancies. The notice shall specify that applications will be accepted for thirty (30) days after the date of the notice, and that failure to apply within the thirty (30) day period will result in removal of that person or persons from the waiting list. Notice shall be deemed given when deposited in the United States mail, with the first class postage prepaid, and addressed as specified by the person or persons on the waiting list. City shall not be liable for a failure to notify any person or persons on the waiting list since placement on the list does not create any property right in any person or persons on the list nor any contractual obligation on the part of the City. An application for placement on the waiting list shall be accompanied by a fee established by resolution of the City Council, but in no event shall the fee exceed the cost of administering the waiting list. (Ord. 2018- 17 § 38, 2018; Ord. 2008-2 § 1 (part), 2008)

#### **17.40.120 Transfer Prohibited.**

No person shall transfer, assign, sell or convey a live-aboard permit. Any attempt to transfer, sell, convey or assign a live-aboard permit shall be a violation of this chapter and grounds for revocation of the permit. (Ord. 2008-2 § 1 (part), 2008)

#### **17.40.130 Revocation/Cancellation.**

The City has reserved the right to cancel live-aboard permits under certain circumstances. Any permit issued pursuant to this chapter shall be deemed cancelled upon revocation of the mooring permit issued pursuant to Chapter 17.60 of the Newport Beach Municipal Code. (Ord. 2008-2 § 1 (part), 2008)

#### **17.40.140 Suspension and Revocation.**

Any permit granted pursuant to this chapter and Chapter 17.60, or any successor chapter, may be suspended or revoked by the Harbormaster upon a determination that:

1. The permittee has violated, or failed to comply with, any of the provisions or requirements of this chapter or Title 17;
2. The permittee has discharged raw or treated sewage into the bay or otherwise violated the provisions of Section 17.40.090 of this chapter;
3. Permittee has failed to pay any fee required to be paid pursuant to the provisions of this chapter and/or resolution of the City Council;



4. The permittee, or any person on the vessel, has engaged in conduct which has unreasonably interfered with the health, safety, welfare, or peace of any person. (Ord. 2018-17 § 39, 2018; Ord. 2008- 2 § 1 (part), 2008)

**17.40.150 Procedure for Suspension or Revocation.**

In the event the Harbormaster determines there may be grounds for suspension or revocation of a permit issued pursuant to this chapter, the Harbormaster shall give written notice [with service of the notice](#) in accordance with Section 1.05.030, or any successor section, of intent to suspend or revoke the permit and the right of the permittee to request a hearing before the Harbormaster within fifteen (15) calendar days from the date on which notice is deemed served. The notice shall state the reason for the proposed suspension or revocation and shall be accompanied by any documents in the possession of the Harbormaster that pertain to the grounds for the proposed action.

If the permittee does not request a hearing within fifteen (15) calendar days of the date the notice is deemed served, the decision of the Harbormaster shall be final and permittee shall not be entitled to an appeal. (Ord. 2018-17 § 40, 2018; Ord. 2013-11 § 159, 2013; Ord. 2008-2 § 1 (part), 2008) 17.40.160

**17.40.160 Appeals or Calls for Review.**

Appeals or calls for review to this chapter shall be made in accordance with Chapter 17.65, [or any successor chapter](#). (Ord. 2015- 9 § 29, 2015; Ord. 2008-2 § 1 (part), 2008)

**Chapter 17.45 SANITATION**

**Sections:**

**17.45.010 Piers, Docks and Floats.**

**17.45.020 Required Pumpout Facilities.**

**17.45.030 Waste and Refuse—Small Vessel Moorage.**

**17.45.010 Piers, Docks and Floats.**

- A. A permit for a pier, dock or float shall not be issued until the rough plumbing for the dwelling unit or the required sanitation facilities serving such pier, dock or float has been installed and approved by the Community Development Department. The use of a pier, dock or float will not be allowed until any required sanitation facilities are completed and in operation.
- B. All public or private commercially operated shore-connected boat marinas shall have a minimum of two restroom facilities, one for women and one for men, for each twenty (20) berthing spaces available in the marina. The walking distance from the farthest boat berth to the restroom facility should be minimized to the extent possible, and shall not exceed a maximum of one thousand (1,000) feet in overall walking distance.
- C. Sewage Pumping Facilities. Permission may be granted to install and operate sewage pumping facilities for boats moored to shore-connected structures providing such

installations are first approved by the ~~Harbor Resources Division~~ Public Works Department and the Community Development Department. (Ord. 2013-11 §§ 160, 161, 2013; Ord. 2008-2 § 1 (part), 2008)

#### 17.45.020 Required Pumpout Facilities.

~~Findings and Purpose. The City Council finds and declares as follows:~~

- ~~1. On July 14, 1986, the City Council created the Coastal Bay Water Quality Citizens Advisory Committee (now the Water Quality/Coastal Tidelands Committee) in response to growing concerns about the deterioration of the quality of water in Newport Bay. The Committee was specifically empowered to develop information, and make recommendations, on proposed measures to improve water quality of the bay.~~
- ~~2. The Committee has, since its inception, conducted monthly meetings and received testimony from representatives of the Regional Water Quality Control Board, the Orange County Health Department, the Harbor Master, businesses that utilize Newport Bay, and experts in the field of water quality.~~
- ~~3. The Committee has determined, based upon testimony presented to it, that there are valid reasons for concern about contamination of bay waters and the Pacific Ocean caused by the discharge of treated or untreated human waste from vessels using the harbor and the Pacific Ocean.~~
- ~~4. The United States Environmental Protection Agency has determined that recreational swimmers exposed to waters contaminated by human waste are at a higher risk of developing gastrointestinal diseases.~~
- ~~5. The failure to take steps to control the discharge of treated or untreated human waste into the bay and the Pacific Ocean could result in a quarantine for water contact sports, a prohibition against gathering of shellfish from the waters of Newport Harbor and the Pacific Ocean and may lead to the onset and spread of disease in humans.~~
- ~~6. The discharge of treated or untreated human waste into the waters of Newport Bay and the Pacific Ocean, if allowed to continue, could jeopardize the economic viability of businesses which utilize, or are located on Newport Bay and the Pacific Ocean, and severely restrict recreational use of the bay and the Pacific Ocean.~~
- ~~7. The number of public pumpout facilities in Newport Harbor to serve the number of vessels using the harbor and the location of those facilities are not convenient to a large number of vessels that require pumpout of holding tanks. Substantial quantities of human waste have been discharged directly into the bay because of the lack of adequate pumpout facilities.~~
- ~~8. The heaviest commercial users of the bay, and those which have the greatest need for adequate pumpout facilities, are sailing clubs, marine activity permittees, and certified charter operations that load and unload passengers at the docks of harbor permittees located in commercial zones.~~
- ~~9.2. The installation and use of pumpout facilities by the heaviest commercial users of Newport Bay will help insure that bacteria, coliform and human pathogen levels remain below those which would cause the adverse impacts described in this section.~~

##### A. Pumpout Facility Required.

1. All sailing clubs, marinas with a capacity of fifty (50) or more vessels and marine activity permittees engaged in providing vessels for lease or charter shall install a vessel waste pumpout system solely for the use of vessels associated with that activity. The pumpout facility shall be installed on dock space under the control of the club or permittee with convenient access to all vessels, owned, leased or

chartered by the club or permittee. The pumpout facility shall have a capacity commensurate with the capacity of the holding tanks of the vessel or vessels of the club or permittee.

2. All pumpout facilities required by this chapter shall be installed pursuant to permit issued by the ~~Harbor Resources Manager—Public Works Department. City.~~ Application for permit shall be made on forms prepared, and furnished, by the ~~Harbor Resources Manager City Public Works Department.~~ No fee shall be charged for the issuance of the pumpout facility permit or any other permit required prior to installation.
3. The application for permit shall be accompanied by appropriate plans and specifications setting forth in detail the work to be done.
- 3.4. The application, plans and specifications required by this chapter shall be reviewed by the Harbor Resources Manager City to determine if the proposed work meets all requirements of this chapter and other provisions of the Newport Beach Municipal Code. The Harbor Resources Manager City shall issue the permit if the proposed pumpout station complies with all applicable ordinances, rules and regulations. A separate permit will be required from the Building Official prior to installation of the pumpout facility.
- 4.5. Maintenance. Permittee shall maintain the pumpout facility in good condition and repair at all times. (Ord. 2013-11 §§ 162—164, 2013; Ord. 2009-2 §§ 6—8, 2009; Ord. 2008-2 § 1 (part), 2008)

#### 17.45.30 Waste and Refuse—~~Small Vessel Moorage.~~

- 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 head, toilet or similar facility on a vessel into the waters of Newport Bay or the Pacific Ocean. All vessels in the waters of Newport Bay which have marine sanitation devices shall be subject, at any time, to boarding by the Harbormaster based upon his/her reasonable suspicion 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 Administrative remedies per NBMC Section 1.05.20 and immediate removal from Newport Harbor.
- B. —Vessel Holding Tank Requirements.
  1. Vessel Wastes. No person shall own or operate a vessel equipped with any head (toilet) or receptacle for human body wastes in the waters of Newport Bay or the Pacific Ocean unless it complies with all applicable Federal, State, County and City standards.
  2. Marina Pumpout Facilities. The owner and operator of every commercial marina with a capacity of fifty (50) or more vessels shall provide a permanent holding tank pumpout facility or equivalent services which are operable and available for use at all times and which are capable of servicing all vessels berthed, docked, or moored at the marina.
- C. Refuse in Navigable Waters. No person shall throw, discharge, deposit or leave or cause, suffer or permit to be thrown, discharged, deposited or left, either from the shore or from any pier or vessel or from any factory or elsewhere, any refuse matter of any description, into the navigable waters of Newport Harbor or on the shore of Newport Harbor or any navigable water within the boundaries of the City where the same may be washed into Newport Harbor or such navigable water, either by tides, or by floods or otherwise.

1. No person shall throw, discharge, deposit, or leave or cause, suffer or permit to be thrown, discharged, deposited or left from any boat, vessel, ship, or barge any graywater, ballast water, bilge water or waste water containing or contaminated with any crude petroleum, refined petroleum, engine oil, antifreeze or oily byproduct within the boundaries of the City unless such graywater, ballast water, bilge water or waste water is discharged into suitable and adequate settling basins, tanks, or other receptacles.

D. Refuse and Vessels on Shoreline. No person shall place or allow vessels, boats, materials, garbage, refuse, timber or waste matter of any description to remain on or upon the shorelines of the Pacific Ocean or on the shorelines of Newport Harbor within the City. The ~~Harbor Resources Manager~~ City may remove the same with or without notice, at his or her option, and the cost thereof may be recovered from any person owning the same, or placing or causing it to be placed on the shoreline, in a civil action.

- E. Refuse—Marinas and Piers. Any owner or operator of a marina or any owner or permit holder who maintains a pier shall keep the area in and around such marina or pier located on the shorelines of Newport Harbor within the City reasonably free and clear from beached or floating refuse, debris or litter at all times.
- F. Discharge of Flammable Materials. No person shall pump or discharge from any vessel or tank into the waters of Newport Harbor, oil, spirits, or any flammable liquid, or deposit any rubbish, refuse matter or articles of any similarly offensive character therein or upon any pier or street leading to such facility.
- G. Dead Animals. No person shall throw, place or leave any dead animal or putrefying matter in the waters of Newport Harbor, or on or along the shore thereof or the shore of any tidewater within the City.
- H. Signs Concerning Sanitation Regulations. The owner or operator of any commercial boat docking facility or marina located on the waters of Newport Bay shall install and maintain at his or her expense in conspicuous locations on the premises thereof standard signs to inform the public of the regulations prohibiting the discharge of toilets on any vessel into the waters of Newport Bay and other provisions of this title which relate to harbor sanitation. Uniform standards and specifications for the design and general locations of such signs shall be prescribed by the Harbor Commission. (Ord. 2013-11 §§ 165—167 2013; Ord. 2009-2 §§ 9, 10, 2009; Ord. 2008-2 § 1 (part), 2008)

## Chapter 17.50 HARBOR DEVELOPMENT PERMITS

### Sections:

- 17.50.010 Harbor Development Permits – General Required for Harbor Structures.
- 17.50.020 Harbor Development Permits – Applications for Harbor Development Permits.
- 17.50.030 Harbor Development Permits - Processing of Application.
- 17.50.040 Harbor Development Permits - Rendering of Decision.
- 17.50.050 Harbor Development Permits - Conditions.
- 17.50.060 Harbor Development Permits - Bond Requirements.
- 17.50.070 Harbor Development Permit - Transfer of Permit.
- 17.50.080 Harbor Development Permit - Expiration, Extension, Violation and Revocation.
- 17.50.090 Harbor Development Permit - Structure Without Permit.

**Declared a Nuisance Abatement.**

17.50.100 Harbor Development Permit - Securing of Structures.

17.50.110 Harbor Development Permit - Appeal or Call for Review.

**17.50.010 Harbor Development Permits – GeneralRequired for Harbor Structures.**

A. No person or agency shall build, make, erect, construct, improve, convert, maintain, extend, expand, reconstruct, replace or make additions or structural alterations (collectively or singularly referred to as “development”) on or to any building, pier, float, gangway, piling, bulkhead, sea wall, reef, breakwater, or other structure in, upon or over the waters of Newport Harbor or the Pacific Ocean or any other water where the tide ebbs and flows within the City, or do any filling or excavating in such waters or ocean, without first obtaining a written “Harbor Construction-Development Permit” from the City and provided that such development complies with the requirements of this chapter. Repairs or maintenance of such structures shall be subject to a maintenance permit in accordance with Sections 17.50.120-17.50.140 inclusive. Painting, replacement of rub-rails, and work considered cosmetic in nature may not require a permit and may be governed by State and Federal environmental policy and law.

B. The County of Orange may do construction work or fill or dredge within Newport Harbor, or cause the same to be done, without such a permit so long as such work is done pursuant to a harbor development plan on lands owned by the County or pursuant to a request therefore by the City Council.

C. A separate permit will be required by the Public Works Department for dredging (see Chapter 17.55, Dredging Permits). (Ord. 2018-17 § 41, 2018; Ord. 2008-2 § 1 (part), 2008)

**17.50.020 Harbor Development Permits – Applications.Application for Harbor Development Permits.**

A. Required Forms. Applications for Harbor Development Permits authority to erect, revise and do maintenance work on structures shall be filed in the office of the Community Development Department and the Public Works Department and processed in compliance with Section 17.05.115 in writing on forms prescribed by the Building Official. Plans showing the location, extent and character of the proposed work and required fees shall accompany the application. The Community Development Department Director shall not issue a permit without prior approval of the Public Works Department Director, or his or her designee.

Required Materials. Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Building Official. The Building Official may request additional materials deemed necessary to support the application. Plans accompanying the application must comply with the Newport Beach Administrative Code adopted by the City of Newport Beach.

B. Required Signatures. Application for discretionary approvals may be made by the owner, lessee, or agent of the owner of the property affected. The application shall be signed by the owner of record or may be signed by the lessee or by an authorized agent if written authorization from the owner of record is filed concurrently with the application. The application must be signed by the harbor permittee or his or her authorized agent. The applicant has the opportunity of submitting “Alternate Materials of Design and Methods of Construction” as part of his or her application for a Harbor Development Permit that may deviate from the design criteria through the appeal process. Supported by Sufficient sufficient



justification.

~~must be provided to the City to review any appeal request. If such a request is desired, obtain the necessary form from the City.~~

~~Fees. Applications shall be accompanied by a fee as established by resolution of the City Council. (Ord. 2018-17 § 42, 2018; Ord. 2013-11 § 168, 2013; Ord. 2008-2 § 1 (part), 2008)~~

#### **17.50.030 Harbor Development Permits - Processing of Application.**

A. ~~In addition to complying the with procedures for processing an application for the Harbor Development Permit in accordance with Section 17.05.140, the~~ The application and plans and specifications shall be reviewed by the Public Works Director and Community Development Department to determine whether the proposed ~~work-development~~ meets all the requirements of this Code and any standards and policies adopted by the City Council or required by State or Federal regulatory agencies for such ~~development~~, construction or work.

B. Approval by Other Agencies as Required.

~~1.~~ Coastal Commission. Proof of prior approval, when applicable, from the California Coastal Commission shall be required before issuing any permit.

~~1.~~

~~2.~~ U.S. Army Corps of Engineers. Proof of prior approval of the U.S. Corps of Engineers will be required.

~~2.~~

~~3.~~ County of Orange. Proof of prior approval of the County of Orange will be required when work extends over County tidelands.

~~3.~~

4. Approval in Concept. All development in areas where the Coastal Commission retains coastal development permit authority shall require conceptual approval from the Public Works Director prior to application to the Coastal Commission. An approval in concept from the Public Works Department indicates the proposed development conforms in concept to all applicable provisions of this title only and does not provide approval for any applicable land use and property development regulation.

C. ~~A public hearing shall be required for as determined by section 17.05.115 Table 17-1 Harbor Development Permits. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Section 17.05.140. Before issuing a permit for any work on oceanfront beaches or for any unusual type of harbor structure, or for a structure on which the applicant proposes a use that is not in keeping with the surrounding area, all property owners or long-term lessees within three hundred (300) feet of the proposed work shall be notified in writing by the Public Works Department of the pending application. Notice will be sent at least ten (10) calendar days prior to a decision by the Public Works Department, and after the department has rendered a decision. The Harbor Development Permit permit shall not be issued until the appeal or call for review period provided in Chapter 17.65, or any successor chapter, expires.~~

D. Prior to the issuance of a permit, the applicant will show proof of insurance coverage as required by the Longshoremen's and Harbor Worker's Compensation Act. (Ord. 2018-17 §§ 43—45, 2018; Ord. 2015-9 § 30, 2015; Ord. 2013-11 §§ 169, 170, 2013; Ord. 2008-2 § 1 (part), 2008)

#### **17.50.040 Harbor Development Permits - Rendering of Decision.**

A. Approval. The City-Community Development Director is authorized to approve and issue new Harbor Development Permits permits and revisions to existing Harbor Development Permits permits that conform to the design criteria and all applicable standards and policies in conjunction with plan reviews by the Public Works Department following compliance with the procedures set forth in Section 17.05.115. and, if a public hearing is required, a public hearing conducted by the Community Development Director, or his or her designee, in compliance with Section 17.05.140. After the conclusion of the hearing on an application for a Harbor Development Permit, tThe Community Development Director shall render a written decision within ten (10) days, unless both the applicant and the Community Development Director consent to a later date at the hearing. The Community Development Director may elect to refer any Harbor Development Permit application to the Harbor Commission for consideration and final action.

B. The application shall be denied if:

1. The application does not conform to the provisions of this Code, the design criteria approved by the City Council.

2. The proposed application is likely to create navigational congestion, or otherwise interfere with the rights of other harbor permittees within Newport Harbor, or ~~other oceanfront~~ property owners or long-term lessees located within a three hundred (300) foot radius.

3. The proposed application does not conform to the policies and regulations of the certified Local Coastal Program.

4. The development is designed or sited so as to obstruct public access to coastal resources or, in the case of the alteration, extension, enlargement, expansion, reconstruction, replacement or addition of any existing structures described in Subsection 17.50.010(A), if such development would, in comparison to the existing structure, restrict or impair the public's use of the bay or beach in the vicinity of the existing structure.- (Ord. 2018-17 § 46, 2018; Ord. 2017-8 § 4, 2017; Ord. 2013-11 § 171, 2013; Ord. 2008-2 § 1 (part), 2008)

#### **17.50.050 Harbor Development Permits - Conditions.**

- A. In granting any such application, the Public Works-Community Development Director shall issue the Harbor Development permit Permit to the owner or long-term lessee of the abutting upland property and may impose conditions in the permit which are deemed necessary to protect commerce, navigation or fishing, or the use, operation or development of Newport Harbor.
- B. When appropriate where projects involve construction or development on or near the waterway, eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys shall be required as a condition of City approval of projects in the Newport Bay. The Southern California *Caulerpa* Action Team (SCCAT) shall be immediately notified if *Caulerpa taxifolia* is found.
- C. Acceptance of Provisions. It is understood and agreed by the permittee that the doing of any work under the permit shall constitute an acceptance of all the applicable provisions of the Municipal Code.
- D. Inspection shall be done by the City for conformity with the California Building Code, design criteria and the approved plans and conditions of approval. (Ord. 2018-17 § 47, 2018; Ord. 2017-8 § 5, 2017; Ord. 2013-11 §§ 172, 173, 2013; Ord. 2008-2 § 1 (part), 2008)

#### **17.50.060 Harbor Development Permits - Bond Requirements.**

If the nature of the proposed work-development is such that if left incomplete it will create a hazard to human life or endanger adjoining property, a cash bond or surety bond satisfactory to the City Attorney in the sum of one hundred twenty (120) percent of the estimated cost of the work will be required to guarantee the faithful performance of the proposed work-development. (Ord. 2008-2 § 1 (part), 2008)

**17.50.070 Harbor Development Permit - Transfer of Permit.**

Harbor Development Permits shall only be issued to and held by the owner or long-term lessee of the abutting upland property. The permittee shall not transfer a permit without prior written approval of the City-Community Development Director and payment of fees as established by resolution of the City Council. No person who as an abutting upland owner or lessee of real property was granted a permit under the provisions of this chapter for a pier or similar structure shall retain any right of use in such pier, or similar structure, after having divested himself or herself of the ownership or leasehold interest in such real property. Upon such divesting, the ownership interest in such pier, float or similar structure shall remain with the person to whom the permit was granted, but the right of use thereof shall vest in the City until such time as a permit for such pier, float or structure is granted to another person. Except where rights of ownership or use have heretofore been judicially decreed, no person may heretofore or hereafter gain any rights of ownership or use of any such pier, float or similar structure by any purported transfer made without such prior written approval of the City. The Public Works-Community Development Director is authorized to approve transfers of permits. (Ord. 2018-17 § 48, 2018: Ord. 2008-2 § 1(part), 2008)

**17.50.080 Harbor Development Permits - Expiration, Extension, Violation and Revocation.**

- A. Expiration. All construction-Harbor Development Permits-permits shall expire unless the work-development contemplated shall have been completed within one hundred eighty (180) days from the date of approval per the Uniform Administrative Code adopted by the City of Newport Beach.
- B. Violation of Terms. Any Harbor Development permit-Permit granted in accordance with the terms of this Code-chapter may be revoked if any of the conditions or terms of such permit are violated, or if any law or ordinance is violated in connection therewith.
- C. Revocation. Procedures for revocation shall be as prescribed by Chapter 17.70, (Enforcement). (Ord. 2008-2 § 1 (part), 2008)

**17.50.090 Harbor Development Permits - Structure Without Permit Declared a Nuisance—Abatement.**

Every structure maintained in or over the waters of Newport Harbor or the Pacific Ocean without a current valid permit existing therefore when required by this chapter, or maintained in a manner or for a purpose other than or different from that provided in the permit, shall constitute a nuisance and shall be immediately abated and may be removed. If upon written notice to remove any such structure the owner thereof fails, refuses or neglects to do so within a reasonable time specified in the notice, being not less than five nor more than thirty (30) days after such notice, the City shall abate or remove it and the cost thereof may be recovered from the owner of such structure in a civil action. (Ord. 2008- 2 § 1 (part), 2008)



#### **17.50.100 Harbor Development Permits - Securing of Structures.**

If, based upon an inspection by the City or the Harbormaster or other facts, the Harbormaster determines that a sea lion has boarded a permitted structure and/or any vessel or other appurtenances attached to the structure, the Harbormaster shall issue a notice of violation and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the structure and/or any vessel or other appurtenances attached to the structure within seven calendar days of the notice of violation. If the Harbormaster determines that appropriate deterrent measures have not been taken within seven calendar days of the notice of violation, the Harbormaster may issue an administrative citation and the permittee shall take any and all necessary action to employ and maintain appropriate sea lion deterrent measures. Appropriate deterrent measures shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of a permitted structure and/or any vessel or other appurtenances attached to the structure (Ord. 2018-17 § 49, 2018: Ord. 2010-5 § 3, 2010: Ord. 2009-1 § 2, 1-27-2009; Ord. 2008-2 § 1 (part), 2008)

#### **17.50.110 Harbor Development Permits - Appeals or Calls for Review.**

Appeals or calls for review to this chapter shall be made in accordance with Chapter 17.65, or any successor chapter.

### **Chapter 17.55 DREDGING PERMITS**

#### **Sections:**

- 17.55.010 Permit Required.**
- 17.55.020 Application for Dredging Permits.**
- 17.55.030 Limits on Development**
- 17.55.040 Limits on Uses**
- 17.55.050 Rights of Appeal or Calls for Review**

#### **17.55.010 Permit Required.**

A. Dredging bayward of residential and commercial property shall be the responsibility of the harbor permittee for the area delineated by the bayward prolongations of upland side property lines and the U.S. project line. All such dredging will require a dredging permit from the Public Works Department and other agencies with jurisdictional authority and may be subject to engineering approval by the Public Works Department.

B. Dredging outside the established harbor lines will require prior approval by the Public Works Department and the U.S. Army Corps of Engineers. (Ord. 2018-17 § 50, 2018: Ord. 2008-2 § 1 (part), 2008)

#### **17.55.020 Application for Dredging Permits.**

A. Required Forms. Applications for dredging permits shall be filed in the office of the Public Works Department in writing on forms prescribed by the Public Works Director.

B. Required Materials. Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Public Works

Director. Applications shall include the following:

1. Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys;
2. Grain size analysis;
3. Identification of the dredge disposal site and dredge quantities; and
4. Any other materials the Public Works Director deems necessary to support the application.

C. Required Signatures. Application for discretionary approvals may be made by the owner, lessee, or agent of the owner of the property affected. The application shall be signed by the owner of record or may be signed by the lessee or by an authorized agent if written authorization from the owner of record is filed concurrently with the application.

D. Fees. Applications shall be accompanied by a fee as established by resolution of the City Council. (Ord. 2018-17 §§ 51, 52, 2018; Ord. 2008-2 § 1 (part), 2008)

#### **17.55.030 Limits on Development.**

Development involving the diking, filling, or dredging of open coastal waters, wetlands, or estuaries shall only be permitted under the following circumstances:

- A. Only if there is no feasible, less environmentally damaging alternative.
- B. If there is no feasible, less environmentally damaging alternative, mitigation measures shall be provided to minimize adverse environmental effects.

C. Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment. The permittee shall be encouraged to work with the City in making sure materials are available for harbor beach replenishment.

D. Diking, filling or dredging projects shall sustain the functional capacity of the wetland, or estuary. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:

1. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project;
2. That the project does not harm or destroy a species or habitat that is rare or endangered;
3. That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary;
4. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or non-consumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.

E. Dredging and dredged material disposal shall avoid significant disruption to marine and wildlife habitats and water circulation. (Ord. 2008-2 § 1 (part), 2008)

#### **17.55.040 Limits on Uses.**

Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to uses consistent with Section 30233 of the California Public Resources Code (Coastal Act) and the certified Local Coastal Program. (Ord. 2013-11 § 174, 2013; Ord. 2008-2 § 1(part), 2008)

### 17.55.050 – Rights of Appeal or Calls for Review

The decision of the Public Works Director may be appealed or called for review within the time and in accordance with the procedures prescribed by Chapter 17.65, or any successor chapter.

## **Chapter 17.60 HARBOR PERMITS AND LEASES**

### **Sections:**

- 17.60.010      ~~Permits and Public Trust Lands Leases—General.~~**
- 17.60.020      **Application for Permits.****
- 17.60.030      **Pier Permits for Noncommercial Piers.****
- 17.60.040      **Mooring Permits.****
- 17.60.050      **Houseboats.****
- 17.60.060      Leases/Permits of Public Trust Lands.**
- ~~17.60.080      Appeal.~~**

### **17.60.010      ~~Permits and Public Trust Lands Leases—General.~~**

A.    Applicability.    Public trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the public trust at any time.

B.    Limits on Uses.    Public trust lands are subject to the Common Law Public Trust, which limits uses to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection.

C.    —Exceptions.    State legislation has modified public trust restrictions for the historic tidelands in Beacon Bay, the Balboa Bay Club, and Harbor Island.

1.    —Beacon Bay. The Beacon Bay Bill (Chapter 74, Statutes of 1978) and Senate Bill 573 (Chapter 317, Statutes of 1997) allow the residential lots of Beacon Bay located within State tidelands to be leased for residential purposes until June 27, 2043.

2.    —Balboa Bay Resort. The Beacon Bay Bill (Chapter 74 of the Statutes of 1978) and Assembly Bill 3139 (Chapter 728, Statutes of 1994) allow Parcel D of the Balboa Bay Resort to be leased for residential purposes until December 31, 2044.

3.—Harbor Island. Chapter 715, Statutes of 1984 allow the filled or reclaimed land on Harbor Island to be leased for nonpermanent recreational and landscaping purposes until March 22, 2047.

~~The State of California became the owner of tidelands on admission to the Union in 1850. The City manages those tidelands pursuant to various legislative grants from the State. The State Lands Commission, which administers tidelands, generally requires a trustee to negotiate leases on the basis of the current market value of the parcel. Failure of a trustee to receive consideration approximating the fair market value of leased tidelands could, under certain circumstances, be considered a violation of the legislatively imposed public trust. The City manages the tidelands through a series of permits, franchises and leases. The Public Works Director shall have the authority to approve, conditionally approve, or disapprove applications~~

~~for the uses and activities that require a harbor permit by the individual chapters of this Code, unless the authority is specifically assigned to the City Manager, Harbormaster, Harbor Commission or the City Council. This chapter applies to permits or leases for public trust lands used for commercial purposes by an entity other than the City, pier permits for non-commercial piers, and mooring permits.~~ (Ord. 2018-17 § 53, 2018: Ord. 2013-1 § 7, 2013: Ord. 2008-2 § 1 (part), 2008)

#### **17.60.020 Application for Permits.**

- A. Required Forms. Applications for permits or leases which pertain to the harbor under the provisions of this ~~title~~ chapter shall be filed in the Public Works Department, in writing, on forms prescribed by the Public Works Director and in compliance with Section 17.05.115.
- B. Required Materials. Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Public Works Director. The Public Works Director may request additional materials deemed necessary to support the application.
- C. Required Signatures. Application for discretionary approvals may be made by the owner, lessee, or agent of the owner of the property affected. The application shall be signed by the owner of record or may be signed by the lessee or by an authorized agent if written authorization from the owner of record is filed concurrently with the application.
- D. Fees. Applications and renewals shall be accompanied by a fee as established by resolution of the City Council.
- E. Tidelands Users. Users of public tidelands, including commercial and noncommercial users, shall be subject to rental or lease charges reflective of the fair market value related to such use as established by the City Council with the assistance of an appraisal. (Ord. 2018-17 §§ 54, 55, 2018; Ord. 2013- 1 § 8, 2013; Ord. 2008-2 § 1 (part), 2008)

#### **17.60.030 Pier Permits for Noncommercial Piers.**

A. Non-commercial Pier Permits. Upon the request of the abutting upland residential property owner, or lessee or the authorized agent of the owner or lessee (as the case may be), and in accordance with all applicable laws including, but not limited to, Subsections 17.35.020(A) and 17.35.020(B) of this Code, a residential pier permit shall be issued for up to ten (10) years. The City shall extend the term of any residential pier permit for up to ten (10) years upon: (1) permit expiration and the request of the owner or, lessee or the authorized agent of the owner or lessee (as the case may be); or (2) upon sale of the abutting upland property and the request of the new owner or, lessee or authorized agent of the owner or lessee (as the case may be). The maximum term of any permit issued hereunder, with extensions, shall be fifty (50) years. After fifty (50) years, the abutting upland residential property owner, or lessee or the authorized agent ~~of the owner~~ as the case may be shall be required to apply for a new residential pier permit.

B. Rental Fees. Rental Fee Required. Every owner or permit holder who maintains a pier used for noncommercial purposes, any part of which extends into public tide lands, shall pay to the City the applicable pier permit rental fee for such portions of the pier that extend into public tidelands, as established by City Council resolution.

C. Transfer of Non-commercial Pier Permits.

1. Permits for ~~harbor structures-non-commercial piers~~ are issued subject to the condition that any improvements constructed shall not be sold in whole or part, leased, or transferred, without the prior written consent of the City.
2. Whenever a permittee sells the abutting residential upland property, a request shall be made to the City to transfer the permit. Forms for this purpose may be obtained from the Public Works Department. Failure to apply for a transfer within thirty (30) days from the date that the abutting upland residential property changed ownership will result in an additional fee as established by resolution of the City Council.
3. Along with the City Manager, the Public Works Director is authorized to approve transfers to the new owners or long-term lessee of the abutting upland residential property.
4. Prior to the transfer of a pier permit, all harbor structures shall be inspected for compliance with the City's minimum plumbing, electrical and structural requirements, and the conditions of the existing permit. All structural deficiencies must be corrected prior to the transfer of the permit.
5. Noncommercial piers may be rented/leased, in whole or in part, by the owner(s) or occupant(s) of the abutting property permittee to a third party (or parties). Such rental/lease shall not be deemed a transfer under this section. (Ord. 2018-17 §§ 56, 57, 2018; Ord. 2014-8 § 1, 2014; Ord. 2013-27 § 3, 2013; Ord. 2013-1 § 9, 2013; Ord. 2008-2 § 1 (part), 2008)
6. The provisions of this Section shall not apply to piers, docks or other structures located in the Promontory Bay and the waters over privately owned land.

#### **17.60.040 Mooring Permits.**

- A. Permit Required. No person shall place, erect, construct, maintain, use or tie to a mooring in the waters of Newport Harbor over City-owned or controlled tidelands (i.e., an offshore mooring) or in the nearshore perimeter of Newport Harbor and its island perpendicular to the shoreline (i.e. an onshore mooring) without first having obtained a mooring permit from the Harbormaster or having otherwise complied with this section. A mooring permit is in the nature of a license for the temporary use of a specific location within the Newport Harbor.
- B. Issuance of Permit—Conditions. The Harbormaster, in furtherance of the tideland grants to the City, may issue a mooring permit or mooring sub permit to allow the mooring permittee or mooring sub-permittee to temporarily use a portion of the waters of Newport Harbor for the mooring of a vessel. ~~Upon the effective date of this chapter, a~~ A mooring permittee may hold up to two mooring permits at any time. A mooring permittee that ~~holds-held~~ more than two mooring permits prior ~~May 11, 2017 to the effective date of this chapter~~ may continue to hold the mooring permits until the permits are sold, revoked, or otherwise transferred under this chapter.
  1. Exceptions.
    - a. The Balboa Yacht Club and the Newport Harbor Yacht Club (collectively, "yacht clubs") currently hold permits for single point moorings placed within certain mooring area boundaries established by the City, except as noted in subsection (B)(3)(f) of this section. In addition, the Lido Isle Community Association ("LICA") has permits for onshore moorings on Lido Isle. These organizations shall hold their respective permits under the yacht club, or respective organization name, for the moorings identified by the City as under their respective control as of May 11, 2017 at the time of enactment of the ordinance codified in this section. The yacht clubs and LICA shall be solely responsible for managing moorings under their control and shall be permitted to assign moorings under their control to yacht club members and members of LICA, respectively. The yacht clubs and LICA shall keep accurate records of



the name and address of the club members and community association members to which each mooring has been assigned. The yacht clubs and LICA may not sell or otherwise transfer the moorings under their control to a third-party that is not a member of the yacht club or LICA. Mooring records shall be provided annually to the Harbormaster on or before February 1st. The yacht clubs shall provide 24/7 contact information for mooring permittees.

b. Mooring of a Tender. A single vessel no longer than fourteen (14) feet in overall length to serve as access to and from the assigned vessel may be secured to the assigned vessel or may be secured to the offshore mooring in the absence of the assigned vessel. The vessel must be secured in such a manner so as not to intrude into the fairway or obstruct neighboring permittees. Notwithstanding the single vessel restriction, permitted live-aboards may secure up to two vessels no longer than fourteen (14) feet in overall length to the assigned vessel, to serve as access to and from the assigned live-aboard vessel.

c. Multiple Vessel Mooring System Program. The Harbormaster may approve a multiple vessel mooring system in the mooring areas of Newport Harbor Yacht Club and the Balboa Yacht Club. An application for a multiple vessel mooring system shall be submitted in writing to the Harbormaster, who shall evaluate the application based upon standards he or she shall have established.

2. Permit Requirements. Each mooring permit may be issued for up to two natural persons (“mooring permittee(s)”) who shall be individually and collectively responsible for all activities related to the mooring permit. To the satisfaction of the Harbormaster, the mooring permittee(s) shall:

a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current e-mail 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. Agree to allow the Harbor Department to board the permittee’s vessel at any time without prior notice to inspect the condition and operability of the marine sanitation devices(s) and/or insert dye tabs to determine whether said devices are discharging overboard.

d. 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;

e. 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;

f. 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;

g. Provide proof of insurance on a vessel as may be determined by the City’s Risk Manager;

h. Provide registration or other proof of controlling possessory right in the assigned vessel, all to the satisfaction of the Harbormaster;

i. 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;

j. 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; and

k. Authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster.

3. Permittee/Transferee Qualifications. A mooring permit may be held by, or transferred to, only the following persons:

- a. A natural person(s) holding title to an assigned vessel;
- b. An executor or administrator carrying out the terms of a will or administering a probated estate that holds a mooring permit, but only for the period of time prior to distribution of the estate;
- c. An inter vivos trust, family trust, or other similar type of trust estate holding a mooring permit, so long as all trustors are natural persons and the primary mooring permittee shall be the trustee of the trust;
- d. An approved transferee whose vessel and/or mooring permit are subject to any of the terms and conditions stated in subsection (E) of this section;
- e. A marine contractor, or marine support service provider, holding a mooring permit used to provide current or ongoing harbor infrastructure and marine or fishing services (such as maintenance and dredging);
- f. ~~Balboa Island Yacht Club for the purposes of youth education in boating and marine activities; Kerckhoff Marine Laboratories for the purpose of marine and oceanographic research; and American Legion Post 291 for the purpose of serving veterans and their families and supplying them with affordable access to boating and harbor activities; or similar marine educational entities;~~
- g. The Balboa Yacht Club, Newport Harbor Yacht Club (collectively “yacht clubs”) and the Lido Isle Community Association—only for those moorings assigned by the City within certain established mooring areas or locations, prior to May 11, 2017 the enactment of the amended ordinance codified in this section. These designated mooring areas may not be expanded. The boundaries of these mooring areas are graphically depicted by National Oceanographic and Atmospheric Administration (“NOAA”) Chart Number 18754. Yacht clubs shall be entitled to maximum number of moorings as can be accommodated in the mooring fields designated in NOAA Chart Number 18754 and at a minimum the current number of moorings assigned to them as of May 11, 2017 the effective date of the ordinance codified in this section.

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.

D. Late Fees. A ten (10) percent late charge shall be added to all payments due but not received by City by the due date.

E. Transfer of Permit. No mooring permittee shall transfer a permit for a mooring or buoy granted under the provisions of this chapter, except:

1. When transferred from a natural person to another member of his or her immediate family, which shall be defined for the purposes of this section as the mooring permittee’s spouse and heirs at law to the second degree of consanguinity; or
2. Except when transferred to immediate family, a mooring permit may only be transferred under this subsection up to one time in any twelve (12) month period.

F. Procedures for Transfers. Permits shall not be transferred without the prior written

approval of the Harbormaster. The Harbormaster may approve the transfer of a mooring permit under the procedures set out below:

1. The mooring permittee(s) (or, if the permittee is deceased or incapacitated, the transferee) shall submit to the Harbormaster:
  - a. A completed mooring transfer form (on the form provided by the Harbormaster); and b. Documentation that the proposed new mooring permittee (transferee) qualifies as a mooring permittee under subsection (B)(3) of this section.
  2. If transferee intends to purchase an assigned vessel but does not have title on the assigned vessel owned by the mooring permittee and transferor at the time of transfer, then:

- a. Within sixty (60) days of a transfer, transferee shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the assigned vessel or, in the case of an onshore mooring, a photograph of the assigned vessel if it is not subject to vessel registration laws. The Harbor Department shall inspect the vessel at its office for compliance with Section 17.25.20 of the Newport Beach Municipal Code before assignment is approved; or

- b. If such documentation is not received by the Harbormaster within the sixty (60) day period, then the vessel or the mooring may be impounded, the mooring may be deemed vacant and may be assigned pursuant to subsections (G) and (H) of this section.

- ~~The Harbor Department shall inspect the vessel at its office for compliance with Section 17.25.020 of the Newport Beach Municipal Code before assignment is approved.~~

3. If transferee intends to moor a vessel other than the assigned vessel and does not have title to the vessel that will be moored at the time of transfer, then:

- a. Within sixty (60) days of an approved transfer, the transferee shall notify the Harbormaster that the assigned vessel has been removed from the mooring and before a new vessel may be placed on the mooring shall submit to the Harbormaster a copy of a California Department of Motor Vehicles registration or other current registration (or, in lieu thereof, U.S. Coast Guard documentation of ownership) documenting transferee's ownership of the new assigned vessel, or in the case of a shore mooring, a photograph of the new assigned vessel if it is not subject to vessel registration laws; or

If the documentation is not received within sixty (60) days of a transfer, the mooring may be deemed vacant by the Harbormaster and the mooring may be assigned pursuant to subsections

- a. (G) and (H) of this section. The mooring may remain vacant until such time the permittee notifies the Harbormaster of their intent to assign their vessel to the mooring.

4. The transfer request shall be denied unless mooring permit rent, including late payment fees, is paid current; registration or documentation and insurance; required mooring inspections are current; required maintenance and repairs are complete and there are no derelict or unauthorized vessel(s) on the mooring, the vessel is the appropriate length.



5. The mooring permittee and transferee shall provide a written agreement to defend and indemnify the City of Newport Beach in any dispute with a third party over transferee's right to be the mooring permittee or in any dispute with a third party over the mooring permittee's right to transfer the permit.

6. Transfer Approval. Upon confirmation of compliance with this subsection, the Harbormaster must find all of the following conditions to approve the transfer of a mooring permit:

a. The mooring permittee no longer owns the assigned vessel or has retained ownership of the assigned vessel and has permanently vacated the mooring; The transferee has met all the qualifications and conditions for issuance of a permit in subsection of this section;

a-b. The transferor or transferee has reported to the Harbormaster the price paid for the mooring permit, and has paid to the City the required transfer rental charge; and

b-c. The transferor represents that he/she/it did not discriminate against any transferee or prospective transferee because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

7. The Harbormaster may approve a one-for-one exchange of moorings between two mooring permittees, subject to compliance with this subsection without any transfer rental advance charge imposed by the City.

8. The Harbormaster may approve the changing of an assigned vessel on the permit, subject to the requirements of subsection (B) of this section, without any transfer rental advance charge imposed by the City.

9. Following an approved transfer, the Harbormaster shall list the transfer price of the mooring permit on a publicly available website hosted by the City, or on a third-party's website under contract with the City to host information regarding mooring permit transfers.

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 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)(e) of this section, City the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:

1. Deemed Vacant Moorings. City The Harbormaster may assign deemed vacant moorings through the issuance of sub-permits at ~~its~~ his or her own discretion. Sub-permits may be renewed upon availability. The mooring permittee may reclaim its mooring upon three days' prior written notice to City the Harbormaster of its intent to return the assigned vessel to the mooring.

A "deemed vacant mooring" shall be defined as a mooring upon which:

- a. An assigned vessel has not been attached for thirty (30) consecutive days or more; or
- b. A vessel, other than an assigned vessel, has been attached for thirty (30) days or more; or
- c. Required documentation for an assigned vessel has not been provided for a transfer request pursuant to subsection (E) of this section.

2. Noticed Vacant Moorings. City The Harbormaster may assign noticed vacant moorings at ~~its~~ his or her own discretion through the issuance of a mooring sub-permit for any period of time, up to the reoccupation date on

mooring permittee's written notice, or the twenty-four (24) hour written notice per subsection (G)(2)(b) of this section. If the mooring continues to be vacant for thirty (30) days past the reoccupation date indicated on mooring permittee's notice, and there is no further written notice from mooring permittee, the mooring shall become a deemed vacant mooring.

- a. Mooring permittee may provide written notice to ~~City~~ the Harbormaster of its intent to vacate its mooring for fifteen (15) days or more. These moorings shall be "noticed vacant moorings." Written notice shall include the date the mooring permittee intends to vacate his/her mooring, and the date he/she intends to reoccupy the mooring with the assigned vessel.
- b. If a mooring permittee provides written notice, the mooring permittee may reclaim the assigned mooring on the reoccupation date indicated in his/her written notice or, if the mooring permittee returns prior to or after the reoccupation date, upon twenty-four (24) hours' written notice to the ~~City~~ Harbormaster.

H. Procedures for Mooring Sub-Permit Issuance. Any natural person wishing to use a mooring pursuant to the issuance of a sub-permit must enter into a written mooring sub-permit agreement with the City that includes the following:

1. A written representation of the current vessel length which shall be satisfactory to the Harbormaster;
2. An agreement to be responsible for any damage to mooring equipment; to defend and indemnify the City of Newport Beach and the mooring permittee against any claims or losses arising out of, or related to, the mooring rental; to require the mooring sub-permittee provide proof of insurance as may be determined by the City's Risk Manager; to require registration or other proof of ownership; to require an equipment damage deposit, all to the satisfaction of the Harbormaster; and authorize the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster;
3. The repair of any damage to the mooring equipment shall be paid by the mooring sub-permittee. If the mooring is damaged by a vessel assigned by the City, or the City's agent, the City will arrange for the repair of the mooring with a qualified vendor and provide notice to the permittee of the occurrence and the arranged repair date. Should the sub-permittee fail to pay for the damage for any reason, the City will pay for the required repairs to the mooring, and then seek reimbursement from the sub-permittee. Also, the City will make available a mooring without charge for the returning vessel of the mooring permittee until such time as their permitted mooring is repaired;
4. Mooring sub-permittees shall provide approved mooring lines which shall be removed at the end of the rental period;
5. A mooring sub-permit agreement may be up to fifteen (15) days and may terminate at any time for any reason, and may be renewed based on availability. Upon return of the assigned vessel to the mooring, the Harbormaster will attempt to reassign the sub-permittee to another mooring. Mooring sub-permittees have no right of renewal or substitute moorings upon return of the assigned vessel, or upon termination of a mooring sub-permit agreement for any reason. Mooring sub-permittees accept an indefinite term at their own risk;
6. The mooring sub-permit rent will be based on a rate established by the Newport Beach City Council;
7. ~~Sub-permittees Live-aboards may be temporarily permitted as sub-permittees stay aboard~~

the vessel pending vessel inspection, for a period not to exceed fifteen (15) days in any twelve (12) month period. The Harbormaster may grant extension(s) for longer than fifteen (15) days;

8. Mooring sub-permits shall be offered to the public on a first-come, first-served basis. City owned and operated moorings may be reserved in advance;

9. Subject to the Harbormaster's approval, a mooring may be loaned ~~free-of-charge~~ by the mooring permittee to a vessel other than the assigned vessel subject to the sub-permittee rental agreement: for no more than thirty (30) consecutive days; provided, that:

a. The mooring permittee provides the Harbormaster with written notice identifying the vessel that will use the mooring;

~~b. The mooring permittee has not loaned the mooring for more than sixty (60) days in the twelve (12) month period that immediately precedes the commencement of the current mooring loan;~~

~~c. The vessel owner requesting a loan has not previously been the recipient of loans for more than ninety (90) days in the previous twelve (12) months; and~~

~~d.b.~~ The vessel owner authorizes the City, or its designee, to move the vessel on the mooring to another location when deemed necessary by the Harbormaster.

I. Mooring Permit Transfer Nonrefundable Rental Charge. The City shall charge the mooring permittee for the right to transfer a mooring permit under subsection (E) of this section in an amount equal to seventy-five (75) percent of the annual mooring rent as established by City Council resolution. This transfer charge represents a one-time non-refundable rental advance for the use of a mooring. A mooring permit transfer charge shall not be required if:

The transfer is from the mooring permittee to the same mooring permittee as trustor of an inter vivos trust, living trust or other similar estate planning tool; The transfer is made under subsections (F)(7) and (8) of this section; or

3. The transfer is made pursuant to subsection (E)(1) of this section.

J. Surrendered Mooring Equipment. If the mooring permittee sells, transfers, or otherwise no longer owns the assigned vessel and does not intend to apply for, or does not receive, approval to transfer the permit to another, the permittee may provide written notice to the Harbormaster of his or her intent to surrender the mooring permit; otherwise the provisions of subsection (G) of this section regarding a vacant mooring shall apply.

Once a mooring permit is surrendered, the mooring permittee shall remove the assigned vessel and/or the mooring equipment thirty (30) days after written notice of surrender of the permit, or, upon failure to remove the mooring equipment, title shall vest in the City and the City shall compensate mooring permittee the fair value for the mooring equipment, less rent or fees owed, as provided in subsection (L) of this section.

K. Revocation of Permit.

1. Grounds for Revocation. A mooring permit or sub-permit may be revoked upon any of the following grounds set forth in Section 17.70.020, or any successor section, or for any of the following:

a. The moored vessel or the mooring equipment has been determined to violate the applicable mooring regulations in Section 17.25.020, or any successor section, and the mooring permittee or sub-permittee has not made the necessary corrections or repairs within the time required;

b. The mooring permittee or sub-permittee has failed or refused to allow an

inspection of the vessel to determine if it is seaworthy and operable, a public nuisance or in compliance with applicable marine sanitation device requirements including the placement of a dye tab in the marine sanitation device;

c. Living aboard a vessel assigned to a mooring without a live-aboard permit unless otherwise noted in subsection (G) of this section;

d. When the mooring permittee or sub-permittee fails to pay any mooring rent or fee when due and is in arrears for a period of sixty (60) days or more; of

e. When the mooring permittee has sublet their mooring in violation of this title.

2. Notice and Hearing. In the event the Harbormaster determines there are grounds to revoke a permit issued pursuant to this chapter, the Harbormaster shall proceed in the manner described by Section 17.70.020, or any successor section.

3. Upon revocation, it shall be the duty of the mooring permittee to immediately remove the mooring equipment and any moored vessel. If not removed within thirty (30) days of revocation of the permit, the mooring equipment shall vest in the City and may be auctioned by the City to another person or may be removed by the Harbormaster and the cost of mooring equipment removal shall be paid by the mooring permittee. Any moored vessel or equipment not removed within thirty (30) days may be impounded by the City and disposed of in the manner provided by law. City incurred costs of removal of mooring equipment or any vessel moored thereto may be charged against the permittee and collected in any court of competent jurisdiction or recovered by the City from the proceeds of sale of the vessel or mooring equipment.

4. During any revocation proceeding under this subsection, if the mooring is unoccupied, it may be temporarily assigned as a mooring for guest vessels by the Harbormaster.

L. Moorings Reverting Back to City. Should a mooring revert back to the City for any reason, whether through abandonment, surrender, failure to provide documents pursuant to subsection (F) of this section, or for any other reason, the following shall apply:

M.

1. The mooring permittee shall be entitled to recover all of mooring permittee's mooring equipment within thirty (30) days of reversion;

2. If mooring permittee does not recover his or her mooring equipment, mooring permittee shall be entitled to payment from the City of the fair value of the mooring equipment as depreciated by use in an amount to be determined by the Harbormaster and as set in the City's master fee resolution, after any and all past due rent and fees, if applicable, have been satisfied; and

3. The mooring may be publicly auctioned by the City, or the City's designated representative, or the mooring may be used for other City purposes. (Ord. 2018-17 § 58, 2018: Ord. 2017-7 § 3, 2017: Ord. 2013-11 § 175, 2013; Ord. 2010-26 § 5, 2010: Ord. 2008-2 § 1 (part), 2008)

N. Extension of Length of Assigned Vessel to Offshore Mooring

1. Request for Extension of Vessel Occupancy Length. If an offshore mooring permittee wishes to moor a vessel other than the assigned vessel that is or will be longer than the assigned vessel, the Harbormaster may amend the existing offshore mooring permit to extend the vessel occupancy length to accommodate a longer vessel up to a maximum of five (5) additional feet upon the terms and conditions set forth below; provided, however, that the Harbormaster may refer such applications to the Harbor Commission for consideration and final action. The request must be in compliance with Harbor Policy. Applications for the extension of vessel occupancy

length in excess of five (5) feet shall be submitted to the Harbor Commission for consideration and rendering of a decision. For applications requiring the approval of the Harbor Commission, the Harbormaster shall present to the Harbor Commission all relevant facts to support the findings included in subsection 5, below.

2. Conditional Approval. An offshore mooring permittee may submit an application to amend an existing offshore mooring permit for a vessel that is known to be longer than the assigned vessel; or for a vessel that is expected to be longer than the assigned vessel if the offshore mooring permittee does not at the time of making an application know the identification of the vessel for which an amendment to the existing offshore mooring permit is being sought. Under either circumstance, the application shall include detailed information of such vessel including make, model, year, Length Overall (LOA), beam, dimension, vessel ID, and if the vessel identification is not known at the time of making an application, the Length Overall (LOA) and Adjusted LOA (including bowsprits, swim steps, or stern mounted dinghies) of the proposed vessel for which the applicant seeks approval and shall otherwise comply with all of the other application requirements and findings and Harbor Policy. If the Harbormaster or the Harbor Commission, as applicable, approves an application for an amendment to the offshore mooring permit under this section, such approval shall be conditional and contingent upon the following requirements:

a. The mooring permittee must occupy the mooring with the new vessel within twelve (12) months following the date of approval;

b. The mooring permittee's rights pursuant to a valid mooring permit, as amended, shall not be sold or otherwise transferred for a period of twelve (12) months following the date of occupancy of the mooring with the new vessel. The sale or transfer of said permit shall comply with the requirements of subsections (B)(3), (E) and (F) of Section 17.60.040.

Non-compliance with either of the foregoing requirements will constitute grounds for the Harbormaster to revoke the amendment to the mooring permit in accordance with Subsection 17.60.040(K). In the event that the Harbormaster determines that there are grounds to revoke the amendment to the mooring permit issued pursuant to this chapter, the Harbormaster shall proceed in the manner described by Section 17.70.020. Upon revocation, it shall be the duty of the mooring permittee to remove the moored vessel and, upon such revocation, to return the mooring area where vessel was assigned to its original length at the mooring permittee's expense within 30-days of written notification to do so. Rather than reverting back to the City upon such revocation, the mooring permittee may thereafter continue to use the mooring in accordance with all of the terms and conditions of the original offshore mooring permit and subject to all of the terms and provisions of Title 17 applicable to mooring permits.

3. Filing and Review of Request. An offshore mooring permittee shall file a written request for an extension of the assigned vessel occupancy length with the Harbor Department on a form prescribed by the Harbormaster, together with the filing fee required by the City's fee schedule adopted by resolution.

4. Application Requirements. An application for an extension of the vessel occupancy length shall include the following information in addition to such other information as may be required by the Harbormaster:



a. The full identification of the applicant and the vessel for which an amendment to the existing offshore mooring permit is sought, certifying that the applicant and the assigned vessel have complied with (or in the event the vessel identification is unknown, applicant will certify that such unidentified vessel prior to occupying the mooring space will comply with) all of the appropriate United States Coast Guard license, inspection, and certification requirements, and certifying that the applicant has read and is otherwise familiar with all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this Title;

b. Such plans and specifications as may be required by the Harbormaster for such mooring to accommodate the proposed longer vessel; and

c. Evidence in support of the findings included in subsection 5, below.

5. Action on Extension Request. Upon receipt of a completed application for an extension of the assigned vessel occupancy length, the Harbormaster or the Harbor Commission, as applicable, may approve or conditionally approve an amendment to the offshore mooring permit to allow the extension of the vessel occupancy length (in the event of an application for an unidentified vessel only a conditional approval may be obtained) only after first finding the following:

a. There have been no changes in the conditions or circumstances of the existing offshore mooring permit so that there would have been grounds for denial of the original offshore mooring permit or grounds for revocation thereof at the time an application for extension of the assigned vessel occupancy length is filed.

b. The proposed extension of the assigned vessel occupancy length will not: (i) impede or obstruct the fairways or channels or prevent or obstruct the passage of other vessels between the rows, (ii) impede, obstruct or prevent other mooring permittees from safely navigating in and out of adjacent moorings or moorings in other rows connected by the same fairway to the row of the permittee's vessel (iii) extend beyond the outer boundaries of the mooring area or row, (iv) exceed the intended vessel LOA established by the Harbor Commission for the row or mooring area in which the vessel will be moored, and (v) exceed the maximum length of the other vessels in the same row.

c. The applicant and the assigned vessel have complied with all of the appropriate United States Coast Guard license, inspection, and certification requirements for the assigned vessel and all of the applicable rules and regulations promulgated by the City, including, but not limited to, the provisions of this Title.

d. The applicant agrees to cover all costs associated with modifying the length of the mooring, including, but not limited to, any costs associated with relocating mooring anchors and tackle, and any costs associated with re-sizing mooring tackle to meet applicable mooring standards (e.g. chain size).

#### **17.60.050 Houseboats.**

A. Moorage Restrictions. No person shall moor or dock a houseboat on the waters of Newport Harbor.

B. No person shall use or occupy or permit the use or occupancy of a houseboat for living

quarters either permanently or on a temporary basis on the waters of Newport Harbor. (Ord. 2008-2 § 1 (part), 2008)

**17.60.060 Public Trust Lands.**

~~The following restrictions shall apply to public trust lands under either a permit or a lease:~~

A. Leases/Permits. In the event public trust lands are used for commercial purposes by an entity other than the City, such as for example, a commercial marina or commercial pier, then that entity shall enter into a lease or permit with the City.

1. Leases shall provide lessees with a leasehold interest in the property for a period of at least five (5) years, not to exceed a period of time as limited by the City Charter or applicable State law.

2. Permits shall provide permittees with an interest in the property for a period of ten (10) years or less, to be determined in the sole and absolute discretion of the City Manager.

3. The City Manager, or his or her designee, is authorized to enter into leases or permits authorized by this section on behalf of the City in a form approved by the City Council pursuant to Resolution No. 2012-91 for large commercial marinas and Resolution No. 2012-97 for commercial use of tidelands (as the same may be subsequently amended from time to time by the City Council) or in such form as is substantially similar thereto; provided, however, that the City Manager may instead refer the matter to the City Council for consideration and approval. Furthermore, the City Manager, or his or her designee, is authorized to implement such leases or permits on behalf of the City and to issue interpretations, waive provisions, and enter into amendments thereof.

B. Land Use. Leases and permits shall be for uses consistent with the public trust and Section 17.05.080. Preference shall be given to coastal-dependent uses.

C. Public Access. Public access shall be provided in a manner consistent with applicable law.

D. Revenue. Rent under this section shall be based upon fair market value, as determined by an authorized appraiser, survey, or other appropriate valuations method, of the uses authorized in the lease or permit as established by the City Council. ~~Such determination shall be based, in part, upon the findings of a City-selected appraiser.~~

E. Commercial uses provided under this Title 17 are exempt from any provision requiring involvement of the owner or long-term lessee of an abutting upland property. This subsection's sole purpose is to allow a person to apply for a commercial pier permit or lease in front of or encroaching upon abutting upland property not owned or leased by the person applying for the permit.

F. All persons that receive a commercial permit or lease, whether it is a new permit or lease or a transferred permit or lease, from the City to use public trust lands shall, to the fullest extent permitted by law, indemnify, hold harmless and defend (with counsel approved by the City, which approval shall not be unreasonably withheld) the City, its elected officials, officers, employees, agents, attorneys, volunteers and representatives from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses of every kind and nature whatsoever (individually, a "claim" or collectively, "claims"), which may arise from or in any manner relate (directly or indirectly) to the permit or lease including, but not limited to, the issuance of any permit or lease, the transfer of any permit or lease, the entry into any permit or lease, permittee's

or lessee's occupancy or use or occupancy or use by, or permittee's or lessee's guests, invitees, sublessees, or licensees occupancy or use, of the public trust lands, or improvements including, but not limited to, any use involving petroleum based products, hazardous materials, hazardous waste and/or other hazardous substances as defined by City, County, State or Federal laws and regulations. The permittee's or lessee's obligations in under this indemnity shall not extend to the degree any claim is proximately caused by the sole negligence or willful misconduct of the City, subject to any immunities which may apply to the City with respect to such claims. This indemnification provision and any other indemnification provided elsewhere in an individual permit or lease shall survive the termination of said permit or lease and shall survive for the entire time that any third party can make a claim.

This indemnity obligation shall apply independent of whether it is explicitly placed within a particular commercial permit or lease. (Ord. 2013-27 §§ 4, 5, 2013; Ord. 2013-15 § 1, 2013; Ord. 2013-1 § 10, 2013; Ord. 2008-2 § 1 (part), 2008)

~~17.60.80 — Appeal.~~

~~Notwithstanding Chapter 17.65, appeals under this chapter involving any permit or lease shall be processed as follows:~~

~~A. — Time Limit. Appeals shall be initiated within twenty-one (21) calendar days of the decision under appeal.~~

~~B. — Initiation. Appeals shall be made in writing to the City Clerk and shall be accompanied by a fee established by resolution of the City Council. The appeal fee shall be refunded to the appellant if he or she is successful in their appeal under this section (e.g., decision being appealed is reversed).~~

~~C. — Effect on Decisions. Decisions that are appealed shall not become effective until the appeal or review is resolved.~~

~~D. — Hearing Date. Appeals shall be scheduled by the Public Works Director and/or Harbormaster, as applicable, for a hearing before an independent hearing officer within thirty (30) days of the filing of the appeal unless both appellant and City consent to a later date.~~

~~E. — Hearing. At the hearing, the hearing officer shall review the record of the decision and hear testimony of the appellant, the applicant and any other interested party. The hearing officer shall consider only the same application, plans and project-related materials that were the subject of the original decision.~~

~~F. — Required Findings. At the hearing, the hearing officer shall make the findings prescribed in this chapter when affirming, modifying or reversing the original decision.~~

~~G. — Decision and Notice. After the hearing, the hearing officer shall affirm, modify or reverse the original decision. When a decision is modified or reversed, the hearing officer shall state the specific reasons for modification or reversal. Decisions on appeals shall be rendered within thirty (30) calendar days of the close of the hearing. The Public Works Director and/or Harbormaster, as applicable, shall mail notice of the hearing officer's decision. Such notice shall be mailed within five working days after the date of the decision to the applicant and the appellant. The decision of the hearing officer shall be final. (Ord. 2018-17 §§ 59—61, 2018; Ord. 2013-1 § 11, 2013; Ord. 2008-2 § 1 (part), 2008)~~

~~H. — Effect on Decisions. Decisions that are appealed shall not become effective until the appeal or review is resolved.~~

~~I. — Hearing Date. Appeals shall be scheduled by the Public Works Director and/or~~

~~Harbormaster, as applicable, for a hearing before an independent hearing officer within thirty (30) days of the filing of the appeal unless both appellant and City consent to a later date.~~

~~J. Hearing. At the hearing, the hearing officer shall review the record of the decision and hear testimony of the appellant, the applicant and any other interested party. The hearing officer shall consider only the same application, plans and project-related materials that were the subject of the original decision.~~

~~K. Required Findings. At the hearing, the hearing officer shall make the findings prescribed in this chapter when affirming, modifying or reversing the original decision.~~

~~L. Decision and Notice. After the hearing, the hearing officer shall affirm, modify or reverse the original decision. When a decision is modified or reversed, the hearing officer shall state the specific reasons for modification or reversal. Decisions on appeals shall be rendered within thirty (30) calendar days of the close of the hearing. The Public Works Director and/or Harbormaster, as applicable, shall mail notice of the hearing officer's decision. Such notice shall be mailed within five working days after the date of the decision to the applicant and the appellant. The decision of the hearing officer shall be final. (Ord. 2018-17 §§ 59–61, 2018; Ord. 2013-1 § 11, 2013; Ord. 2008-2 § 1 (part), 2008)~~

## Chapter 17.65 APPEALS OR CALLS FOR REVIEW

### Sections:

- 17.65.010 Authorization.
- 17.65.020 Time Limits.
- 17.65.030 Initiation.
- 17.65.040 Procedures.
- 17.65.050 Judicial Review of City Decision.

#### 17.65.010 Authorization.

The purpose of this chapter is to provide procedures for the appeal or call for review of decisions of the Public Works Director, Community Development Director, Harbormaster and Harbor Commission under Title 17.

A. Decisions of the Public Works Director, Community Development Director and/or Harbormaster resulting from ~~his or her~~ their respective administration of Title 17 ~~this Code~~ may be appealed to the Harbor Commission by any interested person.

B. Decisions of the Harbor Commission may be appealed to the City Council by any interested person.

C. A member of the Harbor Commission, acting in their official capacity, may call for review, to the Harbor Commission, decisions resulting from the Public Works Director, Community Development Director and/or Harbormaster's administration of ~~this Code~~ Title 17 as applicable. The purpose of the call for review is to bring the matter in front of the entire body for review.

D. A member of the City Council, acting in their official capacity, may call for review, to the City Council, decisions of the Harbor Commission. The purpose of the call for review is to bring the matter in front of the entire body for review. (Ord. 2018-17 § 62, 2018; Ord. 2015-9 § 32,

2015: Ord. 2008-2 § 1(part), 2008)

**17.65.020 Time Limits.**

Appeals or calls for review shall be initiated within fourteen (14) days following the date of the decision was rendered. (Ord. 2015-9 § 33, 2015: Ord. 2008-2 § 1 (part), 2008)

**17.65.030 Initiation.**

A. Filing of Appeals and Calls for Review. Appeals or calls for review of decisions of the Public Works Director, Community Development Director and/or Harbormaster shall be made in writing to the City Clerk on forms provided by the Public Works Director, Community Development Director and/or Harbormaster as applicable. Appeals or calls for review of decisions of the Harbor Commission shall be made in writing to the City Clerk on forms provided by the City Clerk. The appeal shall state the facts and basis for the appeal. A call for review initiated by a member of the Harbor Commission or City Council, in their official capacity, shall be for the purpose of bringing the matter in front of the entire body for review.

B. Fee. Appeals shall be accompanied by a fee as established by resolution of the City Council. A call for review is exempt from the payment of a filing fee under Section 3.36.030, or any successor provision. The appeal fee shall be refunded to the appellant if he or she is successful in his or her appeal under this section (e.g. decision being appealed is reversed).

C. Effect on Decisions. Decisions that are appealed or called for review shall not become effective until the appeal or review is resolved. (Ord. 2018-17 § 63, 2018; Ord. 2015-9 § 34, 2015: Ord. 2008-2 § 1 (part), 2008)

**17.65.040 Procedures.**

A. Hearing Date. An appeal or call for review shall be scheduled for a hearing before the appellate or (reviewing) body within thirty (30) days of the filing of the appeal or call for review unless both applicant and appellant and the City Manager or review body consent to a later date. The City Clerk shall give notice to the appellant of the time, date and place for the hearing not less than ten (10) days prior to the date of the hearing by depositing it in the mail for delivery by the United States Postal Service in a sealed envelope, postage prepaid, addressed to the appellant at his or her last known address, as the same appears in the public records of the City.

B. Notice and Public Hearing. An appeal or call for review hearing shall be a public hearing if the decision being appealed or called for review requires a public hearing. In addition to the notice given to the appellant described in subparagraph (A), above, notice ~~Notice~~ of a public hearings under this Section 17.65.040 shall be given in the manner required under Title 17 for the decision being appealed or called for review.

C. Plans and Materials. At an appeal or review hearing, the deciding appellate or reviewing body shall consider only the same application, plans and project-related materials that were the subject of the original decision.

D. Hearing.

1. At the hearing, the deciding appellate or reviewing body shall review the record of the decision and hear testimony of the appellant, if any, the applicant and any other interested party. An appeal or call for review shall be de novo.

2. The failure of the appellant to appear at the hearing shall constitute a failure to exhaust his or her administrative remedies.



3. The hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidenced on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might consider such admission improper in a civil action in courts of competent jurisdiction in this State. However, irrelevant or unduly repetitious evidence shall be excluded.

4.4. The appellate (or reviewing) body may continue the hearing from time to time and/or request additional information prior to issuing a written decision.

E. Required Findings. At an appeal or review hearing, the ~~deciding appellate (or reviewing)~~ body shall make the findings prescribed in the individual chapters of this Code when affirming, modifying or reversing the original decision.

F. Decision and Notice. After considering all of the testimony and evidence presented at the hearing, the appellate (or reviewing) body shall issue a written decision within thirty (30) days from the date of the conclusion of the hearing. affirm, modify or reverse the original decision. When a The written decision is modified or reversed, the appellate (or reviewing) body shall state the specific reasons for modification or reversal the decision. Decisions on appeals shall be rendered within thirty (30) days of the close of the hearing. The written decision shall be served on the appellant Public Works Director and/or Harbormaster, as applicable, shall by deposit in the mail notice of a Harbor Commission decision for delivery by the United States Postal Service in a sealed envelope, postage prepaid, addressed to the appellant at his or her last known address, as the same appears in the public records of the City. and the The written decision of the City Council shall be serviced by the City Clerk shall mail a notice of a City Council decision in the same manner and within the same time as decision of the Harbor Commission are served. Such notice shall be mailed within five working days after the date of the decision to the applicant and the appellant, if any. (Ord. 2018-17 § 64, 2018; Ord. 2015-9 § 35, 2015: Ord. 2008-2 § 1 (part), 2008)

#### **17.65.050 Judicial Review of City Decision.**

A person shall not seek judicial review of a City decision on any matter until all appeals or calls for review, if applicable, to the Harbor Commission and City Council have been first exhausted in compliance with this chapter. (Ord. 2015-9 § 36, 2015)

### **Chapter 17.70 ENFORCEMENT**

#### **Sections:**

#### **17.70.010 Declaration of Nuisance – Abatement.**

#### **17.70.020 Revocation of Permit.**

#### **17.70.010 Declaration of Nuisance— Abatement.**

Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained in or over the waters of Newport Harbor or the Pacific Ocean contrary to the provisions of this Code, and any use of any land, water, building or premises established, conducted, operated or maintained contrary to the provisions of this Code, shall be and the same is declared to be unlawful and a public nuisance; and the City Attorney shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal and injunction thereof in the manner provided by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation

from setting up, erecting, building, maintaining, or using any such building contrary to the provisions of this Code. Pursuant to Government Code Section 38773, all expenses incurred by the City in connection with any action to abate a public nuisance will be chargeable to the person(s) creating, causing, committing, or maintaining the public nuisance. (Ord. 2008-2 § 1 (part), 2008)

#### 17.70.020 Revocation of Permit.

A. Grounds for Revocation. Unless otherwise provided by the terms of a permit, any permit heretofore or hereafter granted under and pursuant to this Title 17 for any structure, work, or activity in the waters of Newport Harbor or the Pacific Ocean may be revoked by the Harbor Commission upon any of the following grounds, in accordance with the provision of this section:

1. The development work, structure, use or activity has become detrimental to commerce, navigation or fishing;
2. The development work, structure, use or activity is detrimental to the use, operation or development of the harbor Newport Harbor or the Pacific Ocean;
3. The development work, structure, use or activity has become a source of pollution of the harbor Newport Harbor or the Pacific Ocean;
4. The development work, structure, use or activity does not comply with the permit or does not meet the standards adopted by the Harbor Commission for such development, work or structure;
5. The permittee has failed for a period of sixty (60) days to pay the fee or fees heretofore or hereafter imposed for the occupancy of tidelands, filled tidelands or submerged lands upon which such development, work or structure exists;
6. The development work or structure has fallen into a state of disrepair;
7. The space occupied by such development, work or structure is over public trust land and such space is to be devoted to a more necessary public use;
8. The permittee has breached or failed to comply with the terms or conditions contained in the permit or upon which the permit was granted;
9. The development work, structure, use or activity violates the terms of the tidelands trust grants to the City; or -
19. For any violation of this Title 17 or State or Federal law.

A mooring permit or sub-permit may be revoked upon the foregoing grounds or upon any of the grounds set forth in Subsection 17.60.040(K)

B. Notice and Hearing. Any such permit ~~shall~~ may be revoked only after a public hearing before the Harbor Commission at which the permittee has an opportunity to be heard. At least fifteen (15) days' notice of such hearing shall be given by the Harbormaster in writing by first class-certified mail with postage prepaid addressed to the address of the permittee shown on such permit, setting out the date, time and place of hearing, and specifying the facts which constitutes substantial evidence to establish grounds for revocation. Such notice shall provide notice of the time, date and location of the hearing.-

The Harbor Commission may shall preside over the hearing. -or, in the alternative, appoint a Hearing Officer to conduct the hearing, receive relevant evidence and to submit to the Harbor

~~Commission findings and recommendations to be considered by the Harbor Commission. The Harbor Commission may continue a hearing from time to time and may request additional information from the Harbormaster or the permittee before issuing a decision. The failure of the permittee to appear at the hearing shall constitute a failure to exhaust his or her administrative remedies.~~

~~At the hearing, the permittee shall be given the opportunity to testify and present evidence and shall raise any and all legal and factual issues concerning the determination under this section. The hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might consider such admission improper in a civil action.~~

~~shall render its decision within forty-five (45) days from the date of the hearing or, in the event that a Hearing Officer has been appointed, within forty-five (45) days from the date on which the Harbor Commission receives the findings and recommendations of the Hearing Officer. The decision of the Harbor Commission shall be final.~~

C. Decision and Notice. After considering the testimony and evidence presented at the hearing, including, if applicable, the findings and recommendations submitted by the Hearing Officer, the Harbor Commission shall issue a written decision, including the findings upon which the decision was made, within forty-five (45) days from the date of the conclusion of the hearing or, in the case of the conduct of a hearing by a Hearing Officer, within forty-five (45) days from the date on which the Harbor Commission receives the findings and recommendations of the Hearing Officer. The decision of the Harbor Commission shall be final, unless appealed or called for review. The written decision of the Harbor Commission shall be served within five (5) working days after the date of the decision by the City Clerk by certified mail with postage prepaid, addressed to the address of the permittee shown on such permit.

~~Within ten days of the conclusion of the hearing, the Harbor Commission shall render a decision. The City Clerk shall notify the permittee or applicant of the decision of the Harbor Commission.~~

D. Effective Date. The decision of the Harbor Commission to revoke a permit shall become final fourteen (14) days after the date of the decision has been placed in the United States mail by the City Clerk, unless appealed or called for review.

E. Rights of Appeal or Call for Review. The decision of the Harbor Commission may be appealed or called for review by the City Council with the time and in accordance with the procedures. Appeals or calls for review shall be as prescribed by Chapter 17.65, or any successor chapter. (Ord. 2015-9 §§ 37, 38, 2015; Ord. 2013-1 § 12, 2013; Ord. 2008-2 § 1 (part), 2008)

**NEWPORT BEACH HARBOR COMMISSION  
PUBLIC MEETING  
Review of Proposed Changes to Title 17 of the Harbor Code  
Marina Park, 1600 W. Balboa Blvd., Newport Beach, CA 92663  
Monday, May 13, 2019  
7:30 PM**

Commissioner Kenney reported the review will focus on proposed changes to Sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 of the Municipal Code. Comments submitted via email will be considered and do not need to be repeated orally. Grammatical and typographical errors do not need to be noted as they will be corrected. If all the proposed changes have not been reviewed in the allotted time, staff will probably schedule another public meeting. The Harbor Commission Ad Hoc Subcommittee will consider each and every comment; however, the subcommittee may not incorporate each and every comment into the final recommendations to the Harbor Commission. The subcommittee's recommendations will be submitted to the Harbor Commission for review, comment, and hopefully approval. The Harbor Commission's recommendation regarding changes to Title 17 will be presented to the City Council. The public may testify at the Harbor Commission meeting and/or the City Council meeting.

<b>PUBLIC COMMENT</b>	<b>RESPONSE</b>	<b>SUBCOMMITTEE RECOMMENDATION</b>
<b>Section 17.40.20</b>		
That provision today is ambiguous. I've spoken to several commercial owners. They've been asking the question, "Can we have live-aboards in our marinas?" This change, which I strongly disagree with, is now allowing us to have live-aboards in the commercial marinas. That's essentially what you're asking to do here. There should not be live-aboards. They don't address this issue. What you're doing by default here is addressing that.	Do you think there should be live-aboards? If I'm incorrect, Assistant City Manager Jacobs will probably know. Commercial marinas are subject to a lease with the City of Newport Beach. The leases are the governing documents that deal with marinas. I believe they do, but I can't tell you with 100% certainty. I don't believe they do. The one that I read was silent, but I've only read one.	Commercial marinas are silent on the issues of live-aboards. A survey was completed and each operator deals with this differently as they are not specifically prohibited. Newport Harbor Marina has 3 and is considering adding 3 more. This is the most of the marinas surveyed. The subcommittee recommends limiting the live-aboards in commercial marinas to 7% of total number of slips except if they are adjacent to bayward residential properties.
	The Municipal Code only allows for 7% of the moorings in the Harbor to be occupied by live-aboards. There's a finite number of live-aboard permits that are available. The intent of the ad hoc committee is that the commercial marinas would be governed by that same 7% limit. The commercial marinas have other obligations like providing heads and showers, etc. I'm going to make two quick comments. The 7% number applies to offshore moorings only, not the entire population. That's the case today, and we're not proposing any changes	See comment above

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>there. With respect to the commercial marina operators, I feel it should be their discretion. If they don't want live-aboards in their marines, that's fine. There's no obligation to have them. Under the language as it was yesterday, they're potentially prohibited. I would like to see them have the option to use their property at the highest and best use they think possible up to the same limit we impose upon the moorings. There is a distinction between a live-aboard at a marina that has parking and sanitation and things that aren't available on the moorings. If there was an unlimited amount that a marina could turn to a higher and better use for all live-aboards, then that obviously would be a complete pendulum swing to the opposite direction we've been seeking. Right now, there is the rule of 7%, which has been designed for moorings. Whether we come up with a limit or leave it to the discretion of the marinas, that's certainly subject for conversation here today. I'd be open to hearing about leaving it in the marinas' hands versus in the City's hands about something like that..</p> <p>If you read Section 17.40.20, it only deals with marinas that are bayward of residentially zoned properties. There are only a couple of instances in the Harbor where that exists. One of them is Bayshores. It's not every marina; only those that—two marinas in front of Bayshores. There's the old Swales and then the Bellport. There may be a third. There is.</p>	
<p>I think there's one over by the Balboa Yacht Club that has facilities and is adjacent to Little Balboa Island. The channel is only about 150 yards wide. You're now going</p>	<p>Northbound of BCYC also. We believe they have the right today. What we would propose would be to put the same kind of limit as is placed on the offshore moorings.</p>	<p>See comments above</p>



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>to have live-aboards directly adjacent. Now, you're going to have live-aboards in that marina adjacent to the homeowners that live there. I've just got to go on the record as saying that you're giving them permission now.</p>	<p>My thought is not to give them carte blanche, an unlimited number of live-aboards at a commercial marina. This carve-out does sort of leave that door open. I'm not necessarily saying as written here unless there are other caveats to what we will or won't allow a commercial marina to do or to operate or things in their lease documents that would prohibit certain ways they can operate. Unless that is addressed, a straight carve-out like this might open the door to many more live-aboards at a commercial marina than we'd want as an unintended consequence. If we put a limit on the commercial marinas the same as we do on the offshores, then we're at least limiting it to 7%. Without that, there's nothing. Right now, the way the ordinance reads, there isn't anything limiting them. I can't answer that. I'm not sure. What you're saying is the one you read does not have a prohibition. If it's silent, then it's unlimited.</p>	
<p>If I recall correctly, the mark-up in red limits it to 7% on the moorings and in the marinas.</p>	<p>We're going to get to that. It may, and you may be correct, but I can't tell you either way. I remember we addressed it, but we're not there yet.</p>	<p>See comments above</p>
<p>I'm a little confused. Ms. Jacobs just said that commercial marinas are governed by independent documents and not governed by Title 17. Essentially, by adding this language to this document, you are condoning the expansion of live-aboards in commercial marinas. Is that correct? Otherwise, if we're silent on it, it goes to the document on the individual marina or that owner can make an application to the Harbor Commission independent of this document. I'm just thinking about the infrastructure that we have in the</p>	<p>Title 17 does in many instances govern the marinas. Title 17 at this point may or may not govern whether or not they can have live-aboards. As this gentleman just stated, I think we added a provision. I can't remember all 86 pages of these documents. I believe we added a provision limiting the live-aboards in commercial marinas in the same manner that we limited them on offshore moorings. We're not there yet, so let's keep this as an open issue.</p>	<p>See comments above. Title 17 as proposed would now limit the number of live-aboards in marinas to 7% of the slips on site with the condition that residential properties are not bayward of the marina.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Harbor with respect to the Harbormaster and our relationship with the Sheriff's Department. You're talking about putting live-aboards potentially or condoning live-aboards in marinas where they may or may not be allowed. Do we have a fire boat that has the type of hoses required to put out a fire that might spread very rapidly in a commercial marina? Something like 5,000 gallons per minute, not 250 gallons per minute that the Sheriff has? Does the City have a fire boat?</p> <p>What you're saying is you're going to allow potentially live-aboards live there who might have a barbecue or he might do something that any resident might do and ruin their home. You're going to put that in a commercial, dense field. There could be a fire. It could happen. We have boat fires all the time all over the state. We have no facility here in Newport to address that. By adding this, you're increasing potential damage to real property and to residents by adding persons in these commercial areas where they may or may not currently be allowed. All I'm saying is if you're going to do this, the City has an affirmative obligation to provide for the protection that all residents in this City are afforded by the Fire Department. You can't just approve this without doing that.</p> <p>The difference with this document is the City is now condoning through adding that language to this document live-aboards. Why is the City stepping into this when (crosstalk)?</p>	<p>No, the City does not have a fire boat.</p> <p>First of all, it's my understanding that the commercial marinas have the right to have live-aboards today. Second, every boater who has a boat in the marina has the right to use their barbecue or do anything else. It's just that they don't have a right to sleep on the boat 24/7. Third, the Sheriff today is responsible for fire. The City has been trying to get the Sheriff to upgrade the equipment. If we get the right kind of support, maybe we can get our City Council to spring for the dollars we need to get the proper equipment in the Harbor. Nobody's going to argue good or bad whether or not we have the right equipment. Certainly an upgrade would be positive. Let's get to the rest of the document, and see if there is a limitation already. It's our understanding that live-aboards are currently allowed in the commercial marinas. We all might decide, if we get the right citizen support, to ban live-aboards completely in marinas. We're not here to make every decision this evening. We're here to take input.</p>	
<p>In counterpoint to this gentleman. I think most marina operators, especially large marina operators, would tell you that having a small percentage of live-aboards enhances the safety of the overall marina. It's great to have eyes and ears out there all the time. We may see that start happening with regards to theft and vandalism and</p>		<p>See comments above</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>stuff. They're on it. I think a small percentage of live-aboards is a positive thing. We don't really have any large marinas here, so it's a little different. When you're talking about marinas with 25 slip fingers, they go out a long way. When there's nobody around, that's a bad thing. When people are around and boats break loose or fires happen, it's the live-aboards that usually are on it first calling the authorities. My second point is a little bleak. The State of California has a lot of rules and regs regarding affordable housing. I don't know them, but I know the City of Newport Beach will be required to provide X amount of affordable housing incrementally going forward. The live-aboard thing might be a good work-around for the City. This might qualify. I think it will actually. It might be in the overall best interest of the City in different respects to allow some live-aboards. Not a ton but some live-aboards in marinas.</p>		
<p>In response to your concerns about fire, those are real concerns. Every dock that's built in this City is inspected by the Building Department and has to meet certain requirements. We just finished a remodel at Newport Harbor Yacht Club. There's a 5 or 6-inch water main running to the far end of the dock and going off in a T to both directions. There's a 1.5-inch fire hose every 75 feet that has to be able to reach every boat and have ample water supply.</p>	<p>I believe it's in Harbor development permits. I believe you'll see there are some very, very stringent provisions with respect to landward facilities, showers, heads, fire protection, etc. That's in the design standards for new slips. Not every slip has been brought up to current Code. For those of you who don't know, the City Council just approved a complete rebuilding of the Swales anchorage. We put some requirements on there with respect to fire and life safety.</p>	<p>The Building Department is responsible for building codes in marinas to ensure life and safety of those in the marina.</p>
<p>The land-based Fire Department responds to all marina fires and also to mooring fires.</p>	<p>That's correct. How do they respond to mooring fires? The Sheriff can pick them up and take them out there.</p>	<p>The Newport Beach Fire Department responds to all fires on the land and waters of Newport Harbor with the assistance of the Sheriff.</p>
<p>They run the truck down to the Sheriff's Department, jump on the</p>		<p>No comment</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
boat, and go all the way to the other end of the Harbor to get it.		
If the trucks pull up and the big tugboat's not here in Newport Harbor, they have several fire trucks out there pumping water.		No comment
Has the percentage of live-aboards always been 7%? I thought it was 10%.	To our knowledge, it's been 7% for a long, long time. We could probably look into the Code that's online, and it'll tell you when each provision is updated.	To our knowledge 7% is correct
Last week, we were talking about houseboats. We were talking about not likely that a barge-type houseboat would come into Newport Harbor. When this provision is in there, I can see a marina having a barge-type houseboat. I think we used the term Seattle-type houseboat. I agree eyes and ears make it more safe, but I think we could max out real quickly. I'm a little confused where we were with the houseboat definition and then this restriction. I'm trying to get my arms around what's the right thing to do. Say nothing, self-regulate, make it in the lease rather than publish it in the fine print here? It's very vague which is the right way to go.	We realize that the definition itself is a slippery slope. We certainly will make sure that the types of facilities that you see in Sausalito or in Seattle are not allowed. Those are the ones that have fixed landward connections, sewer, water, electrical, etc. The prohibition of houseboats is those that are non-operable, functioning vessels. That would be put in the category of a Seattle-style houseboat as a non-operable vessel. Those are not permitted in the Harbor. That's the current language.	There are no changes to the definitions of houseboats in Newport Harbor
There's a section in the Code right now that says specifically no houseboats period. It's no problem. It's already addressed.	That's correct. We addressed it in the definitions when we were trying to define what is a houseboat. That's where the slippery slope gets in.	No changes to the definition of houseboat.
<b>Section 17.40.050.A</b>		
In my view, the elimination of "serve as the principal residence" vastly expands the availability, a population of potential lessees or people applying for a live-aboard permit. Are we saying that we're allowing that or that it's redundant? It opens up a whole other can of worms. Today we have very limited resources in the Harbormaster's	If we go back to the definition of live-aboard, it requires that they use it as their principal residence. It's redundant. We're talking about opportunities for the Harbormaster to deny permits. Whether it's the principal residence or not, if in the opinion of the Harbormaster the sanitation system is not	Recommend to leave as is. No changes to serving as a principal residence or number of nights allowed to stay on a vessel on a mooring.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>office. I would contend that today we're not even coming close to enforcing our existing guidelines under these documents under lots of provisions. I for one happen to live adjacent to the F field where Wild Wave is. The gentleman continues to stay on that boat more than three nights a month. I have it on video. There's a gentleman on F19 who lives there fulltime, at least seven months out of the year and has not been addressed ever. I've made numerous reports to the Harbormaster about it, the previous Harbormaster as well as this one. For permitted vessels, F22 Sure Lily [phonetic] has been there now for seven months and has never had a single pump-out. There are two people living on that boat every day except for when they're on vacation. Giving more discretion to the Harbormaster in my view is a detriment to the citizens of Newport Beach and the residents that live adjacent to the Harbor. The budget is \$1.1 million. We're holding to that budget. The problem is this Commission is decoupling the enforcement issue from these provisions all throughout, including on the provision that you already made a change to or a potential change to, moving from three to 12 nights. We have no enforcement ability. In my view it's irresponsible of this Commission to make a recommendation that we know we're not going to be able to enforce. Once you start having 12 nights—at least now they know who's on the moorings for three nights. If you put it at 12, who knows whether you're 17, 30, whatever. You're opening Pandora's Box.</p>	<p>sufficient, the permit's going to get denied. It's redundant. Taking it out also gives the Harbormaster a little bit broader powers. The enforcement, in my own opinion, has been expanded greatly from the days of the Sheriff's Department managing the moorings. Second, in my own opinion—I'm not speaking for the Harbor Commission or my colleagues—we have plenty of regulations already. I agree with you that what we need is more enforcement. In order to get more enforcement, we need to impose upon the City Council to expand the budget of the Harbor Department so that we can put more people in the field to deal with the issues that you're dealing with. I personally would concur with you. This is not the forum for that discussion. The forum is the City Council. If you can't enforce the 12 nights, you certainly can't enforce the three so that doesn't make any sense. That's not the purpose for this discussion this evening. That needs to go to the City Council. Do we want to live that provision in or do we want to strike it?</p>	
<p>Strike it—I'm sorry, leave it in. Once those appeals are exhausted, which they have been in this particular case that we're referencing, the City has taken no action to remove that boat.</p>	<p>There is, in my opinion, a section in this Code that makes no sense. It's the section that provided for an appeal of the Harbor Commission's decision to revoke their permit to an</p>	<p>This case is still in the courts. We are following the directions of the judge in the case.</p>



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Can it enforce its own laws?	administrative law judge, which makes no sense whatsoever. Certainly we intend to change that so that next time any appeal goes to the City Council. In the case of Wild Wave, we have been estopped by the judge. This is in litigation, and there's nothing the City can do at this point. There is litigation in process. Wild Wave is claiming that the administrative law judge made the wrong decision. Until there's resolution of the case, if the City tried to boot Wild Wave, we'd get sued big time or the judge might throw a temporary restraining order against us. I don't like it either, but that's the way it is.	
That litigation is ongoing? I was under the impression that that appeal had been completely litigated. There's an appeal of the decision of the lower authority here had been litigated. Maybe the Harbormaster can speak to that. It goes back to my issue about Code enforcement being decoupled from these proceedings.	That's correct. My understanding is it's still in court. Not the topic for this evening. I would like an answer, yes or no, if you guys know what the status is. No, the litigation is completed. We are working to take the appropriate action, but I cannot say anymore than that.	Litigation is on-going.
It's a good comment on enforcement. I lived in a commercial slip for a few years when I moved back to Newport. Now, I'm a permitted live-aboard on the mooring. That's been during the time that the City took over from the Harbor Patrol. Let me tell you, the enforcement exists now. It didn't before. It's a pleasure to live out there. There's a lot of people that aren't here anymore. The live-aboards that are left and permitted and doing the right thing are grateful. Thank you very much.		No comment
I want to comment on the gentleman's comments on F field. I am a live-aboard on the F field. I believe you're referring to my boat. It's F22. Just for the record, we do keep a log of pumping out. When		No comment

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
the time runs out, we go outside and pump three miles out. We really try to keep to the law and keep the Harbor clean because we reside in the Harbor.		
<p>I've been out of town for the last few days, but there has been a discussion in the prior meetings of changing the number of days a permittee can overnight on his mooring.</p> <p>What was the genesis of that?</p> <p>I have one other question.</p> <p>Do any of the Harbor Commissioners that are on this ad hoc committee actually own their own mooring?</p> <p>Were you involved in that decision or that discussion to add the number of days from three to 12?</p> <p>Having that expansion from three to 12 days is (inaudible) to your permit.</p>	<p>That was the subject of the last two meetings. We're past that. If you'd like to make further comment on that, when this committee makes their recommendations to the Harbor Commission, you're more than welcome to come to that meeting and make any comments about any of those changes then. This evening we need to move on to Section 17.40. If it pertains to this, we'll answer. If it's not, we'll move on.</p> <p>I do.</p> <p>I participated in all the discussions and did participate in the formulation of the recommendations.</p>	<p>There are no recommended changes to the number of nights a mooring permittee may stay on their vessel.</p>
<b>Section 17.40.060</b>		
(inaudible) for striking the primary residence. You're striking the same provisions.	Again, we think it's redundant. If you read the definition of live-aboard, it requires that they use it as a principal residence.	Recommend leaving language in regrading principal residence.
<b>Section 17.40.070</b>		
<p>Jumping ahead a little bit, on page 8 there's a similar provision, part 2 about dye tablets, to apply to every vessel in the Harbor. Is this intended to be something (inaudible) from now?</p> <p>No. That's in part 2 of this, which is about the dye tablets. It seems to be identical to the later provision. All vessels are subject to that inspection.</p> <p>I don't see where part 2 adds anything.</p>	<p>Yes.</p> <p>It's unique and specific to live-aboards. The broader provision that you get to in page 8 does apply, but there are vessels that don't have marine sanitation devices. As long as they are not live-aboards, the provision is exclusive.</p> <p>If they have marine sanitation devices. There are boats that are not live-aboards and that do not have such devices. Like a Harbor 20.</p> <p>I think we're being specific about the permit for a live-aboard. Because it's their living space, we have the ability to enter your living space and put in a dye table to make sure that your</p>	<p>Recommend dye tabs may be dropped in a vessels holding tank at any time regardless of whether or not you are a live aboard.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	sanitation device is working properly and according to your permit. The other section that you're referring to on page 8 is just a more general comment about sanitation as a whole because it's under the chapter called sanitation. We're trying to tie this, in this section on page 3, specifically to the live-aboard permits as a condition of your permit.	
There are two words in here that bother me. It says board the vessel any time. Any time? 24/7? If somebody knocks on the door in the middle of the night? It has to do with suspicion of illegal ...	If there's reason to believe that there is illegal dumping, absolutely. There's a burden there that there has to be suspicion. Where we're headed with this is we believe—we're all boaters. I have no problem with the Harbormaster coming to my boat at any time and dropping a dye tab. We think every boat that enters the Harbor should be under that same obligation. That's the way we feel. That's the way I feel.	Recommended anytime 24/7
Why isn't everybody subject to that, even if they're here for two nights?	That's where we're headed. They will be.	It is recommended that everyone be subject to the dye tab rules.
We're talking about dye tablets. Why wouldn't we require anyone who has a live-aboard permit to have a dye tablet in their head at all times? If they're here and tied up, why wouldn't we just make that a provision? Instead of us just suspecting that they're leaking blackwater into the Bay, if you're a live-aboard permittee, why wouldn't you be subject to having one all the time? Why wouldn't we make that regulation?		Recommend dye tabs can be dropped at any time.
How would it get there?		Harbor Department staff would place the dye tablet in the tank
I don't know. We're just talking here. I'm just thinking to myself. I don't know how long a dye tablet lasts. You're supposed to pump it out how often?	Until the tank is evacuated.	Proposed pump out regulations are at a minimum of twice a month.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
When it's full.		Yes.
How often is that when you're living aboard?		Depends.
Once a week.		No comment
How much is a dye tablet?		City will provide tablets for testing purposes
How much is it for the Harbormaster to put it in there?		It is included in the cost of the Department.
It's something you request of the mooring permittee to do.		It is proposed that the Harbor Department may check at any time.
How are you going to tell if the dye tablet's in there?		Staff will drop the tablet in the tank and look in the water for the results.
If you don't trust them to not flush, are you going to trust them to put the tablet in?		This will be done by harbor staff.
That's not going to happen.		No comment
<b>Section 17.40.110</b>		
This is obviously now expressly giving them rights to do that.	Which we believe they had already, but now we're limiting it.	Added language to limit commercial marinas to 7% of total number of slips
Don't they already have other separate agreements?	Carol noted and supplied to us an example. There is a lease. Every commercial marina operator has a lease with the City because their property is over tidelands. That lease covers all sorts of conditions and responsibilities. The one lease that I read made no mention of live-aboards or an allowance or limit on such things. Our attempt here is to put an absolute limit on it should a commercial marina operator wish to include live-aboards in his marina. I believe today it was wide open. You could fill your whole marina with live-aboards.	Added language to limit commercial marinas to 7% of total number of slips
How is that percentage calculated? Say I have commercial slips with five slips and I want somebody to live there. Does that count as 20% occupancy? How does that work?	It's done on lineal feet of slip. You take the total lineal feet of those five slips, take 7% of that. If a boat can fit within that 7%, then it works.	By the number of slips available.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Do you need to have a certain amount of slips to be able to do that?</p>		
<p>I appreciate you guys trying to limit this to 7%, but my point remains that I think you're actually opening it up from zero to seven.</p> <p>I get that. The only reason I bring it up is that I know from speaking with the previous Harbormaster that there were inquiries from commercial marinas about this exact case. It was unclear, so he was unable to provide adequate response. They were saying, "We would like to have live-aboards, but are we allowed to?" He didn't have an adequate response. Now, we're saying, "Now, you can. You can have 7%."</p>	<p>What we're trying to suggest—we will investigate more—is if a lease is silent on the subject of live-aboards, they could have 100%. Their whole marina could be live-aboards because the City is not restricting their use. Our purpose here was to restrict the use. I'm sure there's not a marina with 100% live-aboards, but we're trying to put some number.</p> <p>I'd like to recommend our Commissioners ask our Harbormaster to do an audit of what number exists today of live-aboards in commercial marinas so we have some context as to what this number actually is or isn't. We're just guessing. Just to have an idea because we know how the Bay operates today with whatever number that is. In the context of 7%, it might be the right percentage, it might be the wrong percentage, but let's get a little information before we go further on this topic.</p> <p>We should also ask the lease administrator what the lease administrator's interpretation of the absence of language in this regard means.</p> <p>I'd like to throw out a third concept. Does it make sense to require a live-aboard in a commercial marina to also obtain a live-aboard permit?</p> <p>Yes.</p> <p>That's in there.</p> <p>I don't believe it's in there.</p> <p>Yeah, we put it in there.</p> <p>Then we already have too many live-aboards. No, we don't.</p> <p>Never mind.</p> <p>Under 17.40.40, application for live-aboard permit, Section E, the second paragraph now says applications will be accepted only from persons holding a</p>	<p>Currently leases are silent of if live-aboards are allowed. Therefore, they are allowed without restriction. The proposed language would restrict live-aboards to 7% of the total number of slips.</p> <p>The Harbormaster did conduct a survey and the number of live-aboards is very small in each marina.</p> <p>Recommend that the marinas continue to manage their live-aboard clients and the City conduct audits per the lease agreement to ensure compliance.</p>



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>valid mooring permit pursuant to Chapter ... or a valid rental agreement from a commercial marina.</p> <p>A live-aboard in a commercial marina would be under the same obligation to pump out and do all those other things.</p>	
<p>A question for Kurt. I know the Long Beach marina has lot of experience with this. I'm just curious what is the percentage at, say, Alamitos Bay Marina that they allow.</p> <p>I was just curious what that number was. They must have a ton of experience with that exact topic.</p>	<p>It's 10%. There's a minimize size requirement that the vessel has to be at least 25 feet. The number is also restricted in that there's what I'll describe as a peppering quality to it where different basins of the marina can't exceed that 10%. You can't over-concentrate them. Those are the principals that are applied.</p>	<p>No comment.</p>
<p>Last year, I was looking for a slip. Not (crosstalk) allow live-aboards (crosstalk) I could not find a place to put my boat (inaudible).</p>	<p>I'm going to pose a question. Does it make sense to entertain a change to prohibit live-aboards in commercial marinas?</p> <p>I don't want to place that restriction on the property owners, the marina operators. I would prefer to give them the latitude to do what they think is best for the marina. I am opposed to it. If you guys overrule me, that's fine.</p> <p>I think I'm being cautious to granting that much control over the marina operator without falling into what we'd consider the guideline for the City because it could become a situation that we don't desire with a whole lot of extra marine live-aboards. My thought is not to completely prohibit it but have it under some—I don't know what the right number is or what the threshold should be, but I'm still open to that conversation.</p> <p>Could we ask the Harbormaster to report on the number of live-aboards that actually exist today in commercial marinas and the total as a percentage of the total slips. We'll leave this as an open subject.</p>	<p>See comments above regarding proposed limits on commercial marinas.</p>
<p><b>Section 17.40.070</b></p>		

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>The issue with the pump-outs is—I do know on F19 that boat has never left the marina. It's a single guy. No, Aurora. The issue is we don't have any enforcement over pump-out. We don't require a log. I understand, but it's on the honor system. I would propose that we require pump-outs for live-aboards from an authorized pump-out service or somebody sign-off on their log at the dock and move to a structure where we're ensuring that the pump-outs are happening rather than dumps. I know the dumps are happening.</p> <p>Illegal live-aboard.</p> <p>It gets into the whole thing. If we're incapable of managing the obligations that we have affirmatively now, why would we be condoning an additional 7% in our commercial marinas, which is just that much more work for our understaffed Harbor Department to manage?</p>	<p>We do require a log. Every live-aboard has to keep a log. I'm going to defer to my colleagues. Is that something that either of you or both of you would want to consider?</p> <p>What I know to be true is there is more enforcement today than there was a year ago. I would like to see continued additional enforcement. I would not like to write additional legislation that won't be enforced or won't be enforced anytime soon. I'd like to see the ramp-up efforts for enforcement of our existing Code continue.</p> <p>Is Aurora that you mentioned a legal or illegal live-aboard?</p> <p>We're talking about things we want to do to tighten up the live-aboards that are legal. It's an enforcement question about those that are illegal. We're only as good as our enforcement is capable in that situation.</p> <p>We've already addressed that. We're going to respectfully disagree. We believe that they already have the right and they probably have the right to rent out 100% of their slips to live-aboards. We think we're tightening it up by going to 7%. We all agree that we would love to see more enforcement. It's up to each and everyone of you who believes in more enforcement to go to your City Council person and get them to allocate more funds to the Harbor Department so that we can put more people on the water. That's no longer a topic of discussion for purposes of Title 17.</p>	<p>Added language regarding dye tablets and requiring live-aboards to use a commercial pumpout service with services provided available to the City.</p>
<p>The situation is that enforcement is way more than it's every been before. Previously there were many live-aboard permits available. Now, there's a waiting list, and all the permits are gone. Obviously, the enforcement has increased already.</p>		<p>No comment.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
On the sanitation, we're legal live-aboards, and we regularly pump out. We do so at the same time as we fill our water tanks and wash the boat. It would be an unnecessary cost for us to have to hire a service. Maybe there's a way where we could just call the office and say we're at the pump-out. No one has to come out. We'll never know whether you're going to check our logs. Something like that. I'm against it because we would have to go to the pump-out dock to fill our water anyway. It would really be a waste of money for us to get a service.		Added provision to require commercial pumpouts and provide proof of service upon request.
<b>Section 17.45</b>		
Does this relate only to commercial? When I read A under 14.45.010, if I were to read that for a private property dock, it would be very strange. It's not strange for a commercial dock. This lends itself only to a commercial development. What if the dock's already existing and you're going to replace the dock?	No, sir. That provision is in the Building Department Codes also. I built a home on the Bay, and I could not get a permit for my dock until all of my rough plumbing was installed and permitted. You already have plumbing.	No changes recommended
It's really dealing with the back-flow device.		No changes recommended
If it is the back flow ... Do you read this as no problem for a private dock replacement, repair, or new? Do you have to have sanitation facilities? It makes it clearer.	It's not the back-flow device. It's actually the plumbing itself. It's whole plumbing. No. If you have a home and it has a bathroom, then you meet this provision. This deals with new construction. Back in the '80s and '90s, there were people buying properties and didn't put homes on them because they wanted the docks. It's not that way so much anymore, but there was a period when it was like that. The late '80s. Or you can get a dock permit; that's correct. Would it make the crowd feel better if we inserted the word "upland" before "dwelling unit" in that section of Code so as to	No changes recommended

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>imply the house, which must have rough plumbing at least before you can get a dock permit?</p> <p>The permit would run with the dwelling unit, but we could certainly put that word in there. I'm just suggesting. I'm not recommending.</p> <p>Put that word in there if you would please, Carol.</p>	
<b>Section 17.45.030</b>		
<p>The only time I've ever been boarded is by the Coast Guard. I was outbound, and they wanted to check the vessel for safety. Would they have this ability as the Harbormaster?</p> <p>Should they have the requirement to check it?</p> <p>But they could?</p> <p>Last Thursday, there was a grueling meeting here with the Water Board. I don't know who they hail to the most. I think the State. It seems we have one layer of laws. There's another layer of laws. The Harbormaster can board, but certainly the Coast Guard can board. There's something very complicated about this.</p>	<p>Yes.</p> <p>You better talk to the Coast Guard about that. We have no control whatsoever over the United States Coast Guard, and we have no control whatsoever over the County Sheriff's Department.</p> <p>I'm certain the Coast Guard absolutely has the right. They're chartered with protecting federal waters. The channels of Newport Harbor are federal waterways.</p> <p>You have elected officials that you can address these issues to and with. We debated this. I feel very strongly that any vessel that comes into this Harbor should be by entering the Harbor permitting a jurisdiction, whether it be the City, the County, the State, or the Federal Government, to make sure that, especially with respect to marine sanitation devices, that those devices are operable and all through-holes are shut, and there is no discharge. That's a violation of federal law, and it's a violation of City Code. That's the way I feel about it. That's why we put it in here.</p> <p>What he said.</p>	<p>Added language to allow Harbor Department staff to board a vessel with a marine sanitation device at any time and to drop a dye tablet into the tank. A leaking tank may result in the immediate removal from the harbor.</p>
<p>The Coast Guard has absolute authority to board at any time. They have the option to extend that to local law enforcement. Local law enforcement can board, which is the Sheriff's Department. If the Harbor</p>	<p>Irrespective of authorization by the Coast Guard, this change to the Code gives them the authorization at any time. That's exactly what we're trying to accomplish. When we</p>	<p>See comment above regarding proposed changes.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Department becomes a law enforcement agency, they will automatically be authorized by the Coast Guard under the Coast Guard's authority.</p>	<p>implemented the temporary anchorage in the west turning basin, we actually wanted the Harbor Patrol—when a boat dropped anchor out there, we wanted them to approach the vessel and drop a dye tablet and provide them with a welcome memo that said watch noise and lights because you're close to the west end of Lido Isle. There were those, including some electeds, who pushed back on that because they didn't want an officer with a badge and a gun coming on their boat. Now, we have just regular people out there in our Harbormaster boats, but we still want that right.</p>	
<p>As far as the Harbormaster being able to board your boat at any time, I'm all for that, but there's nowhere that states somebody has to be present on your boat while they board. Can they board when you're not on your boat? I personally would like to see it stated.</p>	<p>That's a good question. We didn't think about that. I would submit there are certain situations. If you're not on your boat and it's discharging, there should be somebody with authority to go on your boat and try to take care of an emergency situation. Other than that, it's not stated. We're leaving it open. What if we said, "except in the case of emergencies, subject at any time to boarding provided there's an occupant on the vessel"? I don't care who's on there. If somebody's on there, you have the right to board. We'll play with that language and bring it back to you next time.</p>	<p>See comments above regarding proposed changes.</p>
<p>In regards to boarding, are you guys boarding in pairs or as a single entity? The Coast Guard and Sheriff's Department have two people specifically for that. The reason I bring it up is as live-boards, if you're a married couple (inaudible) I have my wife in my boat, I don't mind you guys boarding. Obviously, you take care of business. If there's two individuals, there's not a singular person of the opposite sex boarding my boat while my wife is on board.</p>	<p>I don't believe that's something that should be—we can take this Code to 500 pages if we want. That would be an operations issue. Kurt, how would you handle that? For our team's safety, we would look to go with two personnel.</p>	<p>As a matter of practice, two staff members would be present.</p>



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Is there a stipulation where you can bring two personnel to a boarding so there are some checks and balances in that regard?		
<b>Section 17.50</b>		
<p>Getting a dock permit has got to be the worst experience of my whole life. Three and a half years. Since we're on the subject, I've got a bulkhead that if I don't get it dredged and put sand in it, it's going to fall apart. I can't afford to do it on my own. We have to have a block party. The 3 1/2 years to get a City preliminary. Coastal Commission, it got rejected four times. To get Army Corps of Engineers, and then get the Water Board, which was 85 pages for the application, and then go back to the City and it got rejected. I made eight trips to the City.</p> <p>How to make this process more efficient without getting too elaborate tonight with all the people here.</p> <p>It's the purpose of 17.50.010 as we get into this. What I'm saying is it's not only restrictive, but (inaudible). If this was just in charge of community development, we wanted to encourage repair and maintenance and upkeep, there would be a way to fast track this. I don't know how to get around all the verbiage other than what I just said. There has to be an easier way. If I call up one of the marine contractors and I need a bulkhead repair, if I'm lucky, he can do a certain percentage under repair, but he can't fix my whole bulkhead. I'm trying to put this in relation to the Code. Is there a way to modify this Code that facilitates a better way to repair and maintain baseline property?</p> <p>If I submit that to you, you'll take it under consideration?</p>	<p>If you have specific recommendations, we'd love to hear to them.</p> <p>The City of Newport Beach has not control over the Coastal Commission, as you saw the other night, the Water Board, the Army Corps of Engineers. We're talking about federal, state, county, and local bureaucracy. That's not the purpose for this discussion. I had to get a permit for a dock.</p> <p>That's not a topic for this meeting. If you want to make specific changes to the Code, we're more than happy to take those into consideration. We can't change community development. That's a separate division. We certainly can't change the Army Corps or the Regional Water Quality Control Board or the Coastal Commission.</p> <p>There could be. We're just not smart enough to figure it out, so we're going to have to rely on you.</p> <p>Absolutely.</p>	<p>No changes, the City does not have authority over other governmental agencies that have responsibility in the Harbor.</p>
<b>Section 17.50.030.B.2</b>		

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	Insert "where applicable" because I don't think it is in every case. We don't want to make it mandatory.	Added language "as Required"
In that section, is there Water Board? You think you're coming to the finish line, and someone says (crosstalk). Don't put it in?	The Water Board's not in here. We'd be happy to put it in if you'd like.	No recommended change to add the Water Board.
<b>Section 17.50.050</b>		
What I'm referring to is eelgrass. My understanding was that the eelgrass survey requirement has gone away. Can we remove all the references to eelgrass and Caulerpa? In this section, it's requiring you to have—applications shall include eelgrass survey.	The City takes care of it for you now. You as an individual permittee seeker do not have to have your own eelgrass survey. You can rely on the City's eelgrass data. No. You can't because you're still subject to RGP-54, which is the City's permit to circumvent the requirements of the individual dock owners. The real issue is not surveying for, it is replacing. Prior to RGP-54, if you wanted to dredge under your dock and you had eelgrass, you had to replace and cultivate that eelgrass at a rate of 1.38:1 somewhere else in the Harbor. RGP-54 allows us to manage eelgrass globally in the Harbor. So long as the total amount of eelgrass in the Harbor isn't being reduced over time, individual dock owners can dredge without that replacement requirement. The City now performs the survey for you as part of a Harbor-wide survey.	No changes proposed
<b>Section 17.60.030.C.6</b>		
	We need to look at this, Carol. It may be in the wrong place. There are certain portions of the Harbor where the waterways are privately owned. The don't come under the same jurisdiction. There is also one area in the Harbor, Promontory Bay, and this relates also to tidelands assessments. When Promontory Bay was created,	Added the provision; "The provisions of this Section shall not apply to piers, dock and other structures located in the Promontory Bay and the waters over privately owned land."

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>each lot was granted a perpetual easement for repair and slip purposes before the property was dedicated to the City as tidelands. The City took the waterway and made it public, but they took it subject to the easements. That made those docks tantamount to private property. There are certain conditions and restrictions that don't apply in those cases.</p>	
<p><b>Section 17.60.040.B.2.c</b></p>		
	<p>In this case, adding "except in the event of an emergency" would not apply. This is just a requirement for a permit. Leave it as is.</p> <p>For the permittee that is not a live-aboard, if there is something serious going on, by virtue of the fact that your boat is not occupied, you cede permission to the Harbormaster to board if he feels there is an issue.</p>	<p>Added language as a condition of being a permittee the vessel can be boarded at any time regarding the sanitation device.</p>
<p>Will that mean someone who boards a boat is restricted to only looking at the sanitation system or does that give them the ability to call out other things that they may find are an issue or outside what the permit allows.</p> <p>When they're granted permission without an emergency but specifically for the sanitation system, are they allowed to make violations on other things as well? I find it a little bit disconcerting that men will be boarding the boat when I'm there alone.</p> <p>I don't expect to have difficulty. I'm just trying to understand the boundaries (inaudible).</p> <p>With the live-aboard, it's like (inaudible).</p>	<p>There are other provisions in the Code that allow the Harbor Department to inspect and note violations.</p> <p>First of all, I don't believe we need permission to board to drop a dye tablet if you're a live-aboard. Second, there are other requirements in the Code that you must meet. Whether they board solely to drop a dye tablet or to check other violations is irrelevant. If you are in conformance with all the requirements of the live-aboard permit, you won't have any difficulty.</p> <p>If one of our Harbor employees comes aboard, they have the right to look at all the provisions of your permit, whether it's an unkempt boat or improperly stored materials on deck or an inoperable or faulty holding tank, or anything else. That's exactly what we're trying to deal with right now.</p>	<p>Only for the sanitation device.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>But limited specifically to the provisions of the permit. They're not looking for other areas of compliance with any other law, any other component of using your boat. The only things they're authorized to do are look at the specifics of compliance with your marine permit. They are not sworn officers, and they're not looking for anything other than what you're supposed to be doing anyway.</p>	
<p>In the case of issuing permits, we provide the option of inspecting vessels. Should it not be compulsory that the Harbormaster or his designee inspect the vessel before issuing a live-aboard permit? We had a situation like that. No, it's not. I don't believe it's written into this document.</p>	<p>It is a requirement. We would respectfully disagree. If you can find where it's not, let us know. We made that a requirement.</p>	<p>Prior to issuing a mooring permit, the City has the right to inspect the vessel that will be moored.</p>
<p>In regards to the Harbor Department boarding your vessel like a live-aboard, will the Harbor send you notice saying, "We boarded your vessel to drop a dye tablet in your vessel"? This section is to mooring permittees, correct? Not live-aboard permittees (crosstalk). That's what I'm saying. If they do go out to your boat and drop a dye tablet and you're not there, say you don't go to your boat for two or three weeks, they'll let you know?</p>	<p>If you're not a live-aboard, then the Harbormaster is not going to board your boat to drop a dye tablet or do anything unless there's an emergency. If they can see a discharge, they may try to help you out and stop the discharge. This says anybody that's issued a mooring permit is agreeing to this. These are conditions to your permit. If you're a mooring permittee, you're going to agree to allow the City to drop a dye tablet anytime. The Harbor Department is not going to go on an unattended vessel to drop a dye tablet unless there's an emergency. Then, the intent to go onboard would be not to drop just the dye tablet, but to try to fix the problem. That's the key. Most likely we would we would immediately try to contact you. One of the things we're requiring is a way to get a hold of each and every mooring permittee so we can get a hold of you in an emergency.</p>	<p>Harbor Dept. will not board a vessel without the permittee present unless there is an emergency and the owner cannot be reached.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>Is there a limited amount of permits or moorings that we're going to have or are the mooring fields going to continue to grow?</p> <p>This field down here has certainly got more than it needs.</p> <p>In some places, it's almost not navigable if you're in a big boat. It didn't used to be that way; that's why I asked.</p>	<p>The mooring fields are not going to grow. There is a limited amount of moorings.</p> <p>When the Marina Park transient moorings were first established, they were established all along this southern border of the mooring field. To appease some residents who were at the end, they moved them to the east end.</p> <p>There are also occasions when a temporary permit is granted for dredging equipment, and it's usually placed at the east end. We did add the seven sandline moorings for guest boaters shortly after Marina Park was completed. Those are all right out here.</p>	<p>The Harbor Commission is recommending new extension rules to the City Council approved at the HC meeting of June 12<sup>th</sup>.</p>
<p>The mooring permit is defined as a license to set a mooring. Always we've paid permit fees. In this chapter, it's saying we're paying mooring rent fees. We are not renting moorings because we own the moorings. We're paying a fee for the permit to put the mooring on the bottom.</p> <p>It's further down in the same chapter, under 40. It also talks about sub-permittees.</p> <p>There is no mooring permit fee any longer?</p> <p>It's a license to put the mooring there. We're renting the water. We're permittees. The City is renting moorings to people and calling them sub-permittees. They should be a tenant because they have nothing to do with the mooring.</p> <p>The permit fee went away, and it's been changed to (crosstalk).</p>	<p>Can you show us where?</p> <p>I think what you're referring to is subparagraph h. I believe the City Council has established a rent not for the mooring but for the water area that you're using. It's the tidelands assessment.</p> <p>The mooring permit fee would only be the transfer fee in the event of a purchase and sale.</p> <p>The permit is how we keep track of the fact that you have your own mooring ball on tidelands water space.</p> <p>That's the way it's always been. That's required by the State Lands Commission.</p> <p>We're going to let legal make that determination. If you'd like to propose alternate language, we'll give it to legal. I'm not smart enough to figure that out. I just know that the State Lands Commission requires a fair rent for piers and slips and for the use of the waters.</p> <p>I'm not qualified to answer that.</p>	
<p>There was this language about fair market value. What's that based on again?</p> <p>Are they comparing our moorings to our slips or our moorings to</p>	<p>The City hires a third-party appraiser who's an expert at mooring fields up and down the state. They do a survey and come back with a recommendation about what the</p>	

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
<p>moorings in Morro Bay and San Diego and whatnot? Seems like ours is about 300% or 400% higher.</p>	<p>fair market value is. That's how the Council can determine what a fair market rent is. Allegedly it's all over. That appraisal, I believe, is online if you want it. We looked at it and made recommendations. Our recommendations weren't followed totally by the Council.</p>	
<p>What was passed was a formula that laid out exactly what they could do and how much they could be increased and exactly how it was done going forward from that date. It's an established formula. It's not really (crosstalk).</p>		
<p><b>Section 17.60.040.C</b></p>		
<p>In my case, the mooring in front of my house was extended, and a much larger vessel was placed on the mooring that was there. It's a substantially larger vessel. There was no appeals process or no voice of the residents that are directly adjacent. In my case, 100 feet from the end of my dock. The vessel size went up way larger than the previous vessel. There's no provision in this for any hearing or public forum?</p> <p>I would have to guess. It probably went from a 45-foot boat to a 60-foot boat.</p>	<p>This limits the extension to 5 feet maximum, I believe. It contains a bunch of other provisions. As one party to this, I would not be opposed to a right to appeal a decision to extend. Before an extension is granted, the City would have to notice those within 300 feet just like they would for a building permit. If somebody objects, then that decision if granted would be appealable to the Harbor Commission.</p> <p>What size vessel was in front of your house that went up so dramatically? Not sure how that could happen.</p>	<p>The new proposed mooring regulations for extensions would require all extensions over 5 feet in length to go to the Harbor Commission for review. These are all publicly noticed meetings.</p>
<p>We did not extend the mooring. All we did is add more weight. We upgraded the chain. The mooring was barely 65, and was not extended.</p>		
<p>When we have (inaudible), there are fenders all across the side of the boat, on the Bay-facing side of the residences, that protect that boat when it does hit the other boat. It's too big of a vessel for that situation.</p>	<p>That was the case apparently where there was an absolute right for a 60 or 65-foot boat. We can't correct all the prior ills in the Harbor. What we've tried to do here, if you read this, is have objective criteria for disapproving. If you encroach into a fairway and we define a</p>	<p>See proposed mooring extension policy. All requests over 5 feet would have to have Harbor Commission approval.</p>



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>fairway not as the fairway in the main Harbor but fairways within the mooring fields, If in the discretion of the Harbormaster it's unsafe to expand that mooring, then the Harbormaster can certainly turn down the request.</p> <p>Whatever happened there, it already was a 60-footer. It did go from 45 to 60. The idea here is to not allow a marketable increase. By only 5 feet we think that's relatively capping. We're trying to "order of magnitude" this so that you don't wake up and some huge boat's in front of your house the next day. That's not this at all. Whether it involves public comment or has some input from those local residents, I'm open to that concept, but we also want to try to make it as strategic—following the guidelines. If they were followed correctly, those things won't happen. You won't be surprised that next day.</p> <p>There is the ability in here to request a larger extension, but that would be a decision for the Harbor Commission. In that case you would receive notice that there's a public hearing, and you would have every right to testify.</p>	
<p>There are several moorings that are 25-30 feet mixed with 55 and 45-foot moorings. A 55-foot extension on a 25-foot mooring when the boat behind it is on a 55-foot mooring and the boat in front of it's on a 55-foot mooring. If it's between the two, it's reasonable that it should also qualify for 55 feet if there's room. The same with 30-foot boats.</p> <p>Setting the maximum length in a row of moorings would probably be a good way to recover that.</p>	<p>We would respectfully disagree with you. Staff has done an analysis off all moorings and how they're situated throughout the Harbor. We believe what's being proposed is fair. If there's an individual case where you have a 50-foot mooring, a 50-foot mooring, and a 25-foot mooring and the owner of the 25-foot mooring wants to go to 35 feet, there's a procedure in here to allow him to do that. He would have to apply for an extension. That extension would be subject to review and</p>	<p>The new proposed mooring extension standards identify the maximum lengths of vessels per row within each mooring field.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>approval by the Harbor Commission.</p> <p>There are also other requirements in here. If you ask for an extension and that extension is granted, you have to put that length of boat on there within a reasonable amount of time, and you have to keep it there for a period of time.</p>	
<p>I'm a little confused on the 5-foot cap. He gave us an example, and you said it's only 5 feet. Then, you said they can go for 10 feet if it (inaudible).</p>	<p>You can apply for up to a 5-foot extension through the Harbormaster. If your request meets all the criteria in here, then the Harbormaster can grant that. If you choose to apply for an extension larger than that, then your request would have to go to the Harbor Commission for approval. That means public hearings and testimony from the private sector. It is possible but a bit more difficult.</p>	<p>The new proposed policy sets maximum lengths. If the vessel is at its maximum, it cannot be extended. If for some other safety or navigation hazard issue, the Harbormaster can deny the request/</p>
<p>Am I hearing this right that Section (b), the mooring permit as amended shall not be sold or otherwise transferred for a period of 12 months. Is that saying if we do get granted our 5 feet and we've extended our 5 feet, we can't sell that mooring within 12 months?</p>	<p>Correct.</p> <p>I believe what the provision says is if you do so within 12 months, then you lose that 5-foot extension. It goes back to the original length.</p>	<p>Correct.</p>
<p><b>Section 17.60.040.C.2.b</b></p>		
<p>As many people that buy moorings buy a mooring in anticipation of buying a boat. That happens all the time.</p>	<p>There are provisions that allow you a certain period of time, especially when you're buying a mooring and you want to put a new boat on there but you don't have the new boat. You certainly have to bring the new boat within a period of time. If someone wants to buy a mooring, they need to read the Code and be sure they can comply with the Code before they start purchasing the mooring.</p>	<p>No comment.</p>
<p>Your comment was for a situation where you're transferring a boat and a mooring at the same time? That wasn't clear.</p>	<p>It says if a transferee intends to purchase an assigned vessel and doesn't have title to the vessel owned by the mooring</p>	<p>The City does not allow a boat not registered to the mooring permittee on a mooring. If there is a transfer, the City will</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>permittee and transferor at the time of transfer, within a certain period of time, they have to bring in registration documentation, etc. They have to have the vessel inspected.</p>	<p>allow time to transfer ownership of the vessel.</p>
<p>What if you're transferring a mooring with no boat? (crosstalk) boat on the mooring. We're not required to keep a boat on our mooring now? That would go on to the transferee also?</p>	<p>You have the right to transfer your mooring without a boat. Again, it's going to be the transferee's responsibility to meet all these requirements. It's a 60-day period. The transferee has 60 days to provide us with the information. No.</p>	<p>This is correct.</p>
<p>It seems like we should have language in there that says something to the effect that before a vessel goes on a mooring where you had a transfer, that vessel has to be inspected before it goes on the mooring.</p>	<p>A transfer can happen without a vessel. When the vessel is going to be assigned, it has to be inspected. If the vessel did not meet the City's standards, what would we do to the transfer? Not assign it to the mooring. The permittee still has the permit, but he can't put that boat on it. He has the mooring, but it's an empty mooring. That raises a question I can't answer. If you purchase a mooring, do you have to put a vessel on that mooring within a certain period of time? What if you're not purchasing the assigned vessel?</p>	<p>The City will inquire about the boat to be moored on the vessel. If a boat is to be purchased, the City will provide the permittee time to do so. If the boat is transferring ownership, the boat will be inspected by Harbor staff prior to approval of the transfer.</p>
<p>If I sold you my mooring and you didn't have a boat and there's no boat on my mooring, you wanted it for, say, two years down the line, the City doesn't require you to have a boat on the mooring. You can have a transfer to the new transferee, correct? That wouldn't stop my transfer?</p>	<p>I'm not sure. Before the new permittee can put a boat on it, they're going to have to go to the Harbormaster and have an inspection. Harbor Services workers see what is supposed to be an unoccupied mooring with a boat on it, they're going to note that. It's not going to stop the transfer. It's only intended to protect what boat eventually gets assigned.</p>	<p>We would not stop a transfer if no boat is on the mooring. The City would have the right to rent the mooring.</p>
<p>Some people buy moorings way in advance of their boat. There's one by me that he bought the mooring seven or eight years ago because</p>		<p>No comment</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
he's building a boat that will fit the mooring. He's had a 25-foot boat on it for the last ten years.		
On 2.a., why is that 60-day thing in there? If the guy buying the mooring doesn't have a boat yet, this implies he has to give you the name of the vessel within 60 days, but yet he's not required to have a vessel out there. It seems like the language is fuzzy. I think the idea was if you do buy a new vessel, you already have the mooring, you put the vessel out there, you've got 60 days to show you the documentation.	How about "prior to a boat occupying the mooring, the new permittee shall show us documentation, registration, and inspection"?	Added some additional clarifying language.
This gives the Harbormaster the right in every case for every transfer to see the vessel before it goes on the mooring. Is that correct?	Then, we can deny the vessel. That's the intent.	Yes, that is correct.
<b>Section 17.60.040.F.2.a.</b>		
There are two a's there. The second one is cool. The first one is kind of weird.	We need to wordsmith this.	Fixed numbering
<b>Section 17.60.040.G.2.a</b>		
	I think we should change "may provide written notice" to "shall provide written notice." I'm going to argue against that. My boat is currently in the yard. It was only intended to be in the yard for one week. It has now been there 45 days. I would not like to be under obligation to notify the City that my mooring was unexpectedly vacant for 45 days. It would be nice, but it's an administrative nightmare. I'll retract my suggestion.	No change
<b>Section 17.60.040.H.7</b>		
Hundreds of boats go south every year.		No additional changes
What about the rights of the residents that are adjacent to some of these moorings?	The moorings are going to be occupied one way or the other. The only question is can they	This section is for visiting mariners. If they are causing a

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	<p>stay here longer than 15 days. Homeowners have rights obviously if there are violation of noise or light or whatever. If there's a complaint, the Harbormaster doesn't renew the next time around. Or we pull it in advance. We have that ability.</p>	<p>problem we simply revoke the sub-permit.</p>
<p>Will these people staying 15 days or longer be required to meet that same criteria as a live-aboard? The condition of the vessel and the insurance and all that stuff. People in the C section were complaining about some boats that were there over the past winter season. They were basically derelict boats with derelict people on the boats. Yes.</p>	<p>Absolutely, certainly with respect to the dye tablet. Before they can get a sub-permit, they have to show registration and proof of insurance. He raises a good issue. If someone's going to stay in the Harbor for 15 days, should that vessel be subject to prior inspection? I would say yes. As a sub-permittee? I suggest we put in an inspection requirement if you're here longer than 15 days. I'm comfortable with that. I'm good with it. Is there really a requirement to do that? Do all the sub-permittees come here first and then go to their mooring or go to the mooring first and then come here to check in and register?</p>	<p>Yes, visitors are subject to the same rules as mooring permittees.</p>
<p>Yeah. They have to come to the dock anyway.</p>		<p>No comment.</p>
<p>That was not what I (crosstalk) in speaking with the previous Harbormaster. There are many situations where the boats went straight to the mooring and only the paperwork got processed in the office. (crosstalk) every boat that goes on a mooring.</p>	<p>That's still the case. How would they know where to go? Do they phone or email ahead and get assigned? We'll see the customer and the paperwork, but there's not a requirement or practice to bring the boat to the dock at this point. Should we add that?</p>	<p>This is an operational issue, staff will sort out.</p>
<p>Yes.</p>	<p>Our staff goes out there every single day and looks at every single boat. To perform the equivalent of a live-aboard inspection would necessitate them to come to the dock. I think that's overkill.</p>	<p>No comment.</p>

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Especially if the docks are pretty full.	Why can't you perform the same level of inspection on the mooring? I suppose we could. It just hasn't been our practice.	This is an operational issue, staff will resolve.
Part of that live-aboard inspection is you have to prove that vessel can be moved. That's why you have to bring it to the dock.		Yes.
On Number 7, the verbiage is the Harbormaster can grant a 15-day plus extension, more than 15 days. Does that have a cap or is it open-ended? They could be here for a year or two years?	We think the intention was to leave it open-ended, but it's at the discretion of the Harbormaster. He's dealing with these people because they have to come in and renew every 15 days. It's not like they go unattended. Yeah. We could put a cap on there.	Discretion of the harbormaster and the individual situation. Harbormaster has authority to revoke at any time.
I don't think so because some people have to go back home.		No comment.
It's expensive. It's like Catalina. It's not like someone's going to keep plunking it down to buy a mooring.	It could be a vessel that's broken down and waiting for a part to be ordered. It would have to stay a period of time. Seven has to do with the sub-permittee's ability to stay aboard the vessel, not about whether or not we extend beyond 15 days. It also says pending vessel inspection.	No comment.
If they're a long-distance cruiser, they have nowhere else to stay. They might be 1,000 miles from home.	I would suggest subject to an inspection, a sub-permittee may be allowed to stay aboard the vessel for a period not to exceed 15 days. If you want to stay on your boat for 15 days, we're going to inspect it just like a live-aboard.	No comment
Who starts the 15-day count?	When they get here. The first day you pay for your sub-permit. Do we want to put a cap on this? I'm good with the discretion of the Harbormaster. I'm good with the Harbormaster's discretion.	The Harbor Department staff.



PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
It's reasonable to let them stay if they're a good tenant. If they're not a good tenant, they should go.		
<b>Section 17.60.040.H.9</b>		
Is that saying I can loan my mooring to another vessel free of charge? Is there now a fee? That is?	It is not free of charge. Free of charge has been removed. Yes, sir. That goes through the City. Basically, you can't rent your mooring to a third party nor can you rent it or offer it for free.	That language has been proposed to be removed. If a mooring is vacant, the City retains the right to rent the mooring and is subject to the sub-permittee fees, rules and regulations.
Let's say I have a friend that has their boat coming. They have to go through you at the City for my mooring?	Correct. You can give them the right to use your mooring, but they're going to be treated like a sub-permittee. They're going to be inspected and pay the fee.	This would be considered a sub-permit with the City.
There used to be a 30-day free period that you could do three times a year. Is that no longer?	We found that was being abused.	This language is proposed to be removed.
I loaned one of my moorings to a friend earlier this year. He was only given 30 days. Now he can have more than 30 days? He was a live-aboard. When the 30-day time came, the Harbormaster guys came out and said he was done. He wanted to stay another month, but he wasn't paying me. I see you have the 30 days crossed out.	He can have as long as he wants, but he has to pay for it. Is he going to live aboard it or have the boat sit there?	He can stay based on the terms outlined by the sub-permittee permit.
You're saying now it's not available at all.		Correct.
If he wanted to stay another 30 days and he paid you where he didn't have to pay before because it was on loan, he could do that? Would they be charging him the same rate?	There is a 30-day limit in the Code today. There is also the right for you to loan your mooring for free. We're proposing to take out the 30-day limit. If you let someone use your mooring, they become a sub-permittee, and they have to file with the Harbormaster. They have to pay a fee for the use of that mooring. They don't get it for free. If these Code changes are adopted, you could loan your mooring for 60 or 90 days where today it's only 30.	This is proposed to be changed. Permittee's can no longer loan their moorings.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
	They would be charged the same rate as a sub-permittee.	
What's the top rate? Would this (inaudible) lower the value of all the moorings? Maybe I own a mooring because I have some friends with boats, but I want to come visit, and I no longer want to (inaudible). I feel like it lowers the value of all moorings.	It's \$1.25 a foot a night unless you have a catamaran. Then it's \$1.50 a foot a night. I don't believe that's the case, but we can agree to disagree on that.	Correct.
What's being proposed is consistent with what they do in the city of Avalon. If you're not on your mooring, they rent it, and they get the fee.		No comment
Is there a (inaudible) for dock owners? You guys are enforcing that too?	There are prohibitions against renting your residential pier to someone. If you're going to rent your residential pier to someone, you become a marina operator, and you pay a different rate for your permit. All of the homes within planned developments, Promontory Bay, Linda Island, Dover Shores, have restrictions through the homeowners association that you can't rent your dock. I'm not saying it doesn't happen.	Dock owners cannot rent their docks either.
If we went cruising for six months, we can't rent our mooring at all?	Correct. You can't rent it. A residential homeowner who wanted to rent their dock could do so, but they would have to apply to the City to become a commercial marina. There are other requirements in the Code that deal with commercial marinas. Their tidelands assessment would be significantly higher. It's not that much different than a mooring sub-permittee. They're going to pay a lot more than the mooring permittee does.	No comment.
<b>Section 17.60.040 K.1.b.</b>		
There's no provision that I've seen that deals with commercial activity occurring on a vessel. It is happening in this Harbor. There's	That's all happening outside the Harbor. Didn't you hear the testimony?	Harbor Department staff will address as part of code enforcement.

<b>PUBLIC COMMENT</b>	<b>RESPONSE</b>	<b>SUBCOMMITTEE RECOMMENDATION</b>
fabrication, machining, welding, (inaudible), dumping. It's all happening on the F mooring field. There's slag being dumped in the Bay. There are all kinds of issues.	There are provisions in the Code. It's not allowed.	

Assistant City Manager Jacobs explained that the subcommittee will review all comments. Staff will prepare a document detailing the subcommittee's actions on the comments and suggestions. A second public meeting will be scheduled to review the comments and new proposed changes.

In response to a member of the public's comment about meeting notices, attendees discussed options for and the realities of providing notice to the public.

The next public meeting is June 24 at 6:00 p.m. at Marina Park.

**NEWPORT BEACH HARBOR COMMISSION  
PUBLIC MEETING  
Review of Proposed Changes to Title 17 of the Harbor Code  
Marina Park, 1600 W. Balboa Blvd., Newport Beach, CA 92663  
Monday, June 24, 2019  
6:00 PM**

Commissioner Kenney reported the review will cover proposed revisions to Sections 17.40, 17.45, 17.50, 17.55, 17.60, 17.65, and 17.70 of Title 17 of the Newport Beach Municipal Code. Written comments do not need to be reiterated during the meeting. Comments should not focus on formatting, grammatical, or typographical errors. The Harbor Commission subcommittee will consider but may not incorporate each public comment into its final recommendations to the Harbor Commission. The subcommittee's final recommendations may be presented to the Harbor Commission in July. The public may provide comments to the Harbor Commission and the City Council.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<b>Section 17.40.010</b>		
<p>If you look at the beginning of Title 17 where it gives the table of contents, under that it gives a prior ordinance history because this is not the first comprehensive update of Title 17. There was a comprehensive update in 2008. The little references are the sections, ordinances, and things that have happened since 2008. If you look through the previous ordinance history, you'll find Ordinance 89-7 was adopted in 1989, which is where this entire chapter, 17.40, came from. As you can guess from the purpose paragraph that was just read, it identified a sanitation problem that had to do with offshore moorings. The entire concept of live-aboards and regulation was confined to offshore moorings as the purpose paragraph still says. Over the years since 1989, sections have been grafted onto this that have to do with live-aboards on piers, at marinas, and so forth. The whole thing does not quite fit. To the public reading this, it's very confusing to read the purpose has to do with offshore moorings and then in the next paragraph to hear references to the things that are not moorings. I don't know what the line for that is other than I think we're taking a detailed approach</p>	<p>What I hear Mr. Mosher saying is it's more of a definitional issue. We have a preamble of what we're dealing with in this document. It doesn't speak solely to offshore moorings. We do make references to marina. Onshore references are made. Without knowing the legalese of how this document evolved and just reading that, that makes sense to me. Perhaps the purpose needs to be expanded to include all live-aboards within the Harbor. I'm not sure if I'm missing something legally by making that statement, but I agree with Mr. Mosher.</p> <p>At some point we need to take a step up and not be so focused on the details within each and every section and take a comprehensive look at the entire Code and all the sections within and how they fit together. The bigger point I hear is there is redundancy and inconsistency. Somebody should take a look at that level and clean that up.</p> <p>I think our goal is to look at the bigger picture. What is a live-aboard? What is not a live-aboard? I concur with you that the opening paragraph speaks</p>	<p>The City Attorney's office will address these issues during their review.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>here without looking at the bigger picture and focusing on little parts that are highlighted here as kind of missing that big picture. It's not fitting together still.</p> <p>There is an additional definitional problem. At the Harbor Commission meeting, you were debating a definition in another section of the Harbor Code that defined live-aboard as anybody who stayed onboard for more than 72 hours. When reading this section, if you do live-aboard, you have to have a permit. To have a permit, you have to promise that you live on your boat for a majority of the year. There is a vast gray area between 72 hours and half a year that doesn't seem to be addressed anywhere, which is part of not looking at the big purpose but looking at details in one part and details in another.</p> <p>The original purpose paragraph that we're looking at here, you see it labeled A. Before the last comprehensive update, there were A, B, C, D, E defining what the purpose was. The problem identified was the sanitation problem. The reasoning was the people on offshore moorings had no place to dispose of their waste. Whereas, those who lived at other piers and marinas could use onshore facilities for their needs. Therefore, that's what this chapter is addressing, that big-purpose problem of people with nowhere to dispose of their waste. It kind of explains the big-purpose picture of what the chapter is trying to do before the other parts got drafted onto it.</p> <p>(Crosstalk) onshore restrooms.</p>	<p>to offshore moorings, and yet we've incorporated later on in here commercial marinas. From a bigger-picture standpoint, the question was raised of are commercial marinas regulated. We didn't think they were pursuant to Title 17. Theoretically, a marina could be 100-percent live-aboards. From a bigger-picture standpoint, we're trying to address the commercial marina issue. Maybe it shouldn't be in here. In my opinion, here's where we need legal to help us. Mr. Mosher, I don't disagree with you. I would like to see this whole thing scrapped and started over. My read at the top is it's not going to happen. What we're looking at are the substantive issues and how do we address them. From a legal perspective in the end, we're going to have to rely on legal counsel to tell us how to reduce to proper wording the concepts that I think we're all approving.</p> <p>And be sure nothing is overlooked in the process. That's the important part that we're here today to do.</p> <p>In that regard, I would respectfully disagree with you. Back in 1989, there wasn't a commercial marina in Newport Harbor that I'm aware and that had any disposal facilities. Certainly a vessel that would be in front of a private home, a private dock would not have any disposal facilities either.</p> <p>But they could go use the shower at the residence. In the case of a commercial marina, they could go up and use the shore-based facilities rather than the facilities on the vessel.</p> <p>If we replace the words "on offshore moorings" with "in</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Newport Harbor," it would make the purpose much grander and provide some level of consistency across.</p> <p>I would agree with that to the extent we don't have differentiation between any of the rules or guidelines that we're making for just what Mr. Mosher speaks of. There is a different set of circumstances of offshore mooring as there is to marina mooring. As long as that overriding decision changing it to everything doesn't diminish our need to differentiate, then I can accept that.</p> <p>I like that change.</p>	
<b>Section 17.40.50</b>		
<p>I'm looking at all these moorings straight on (inaudible). Is that the City-owned mooring that you can live aboard or is that considered you can use it for weekends or what? These right out here.</p> <p>Are these owned by a person or by the City? These moorings right here in this whatever.</p> <p>But no one owns a mooring that is a City-owned mooring, to do whatever you want to do?</p> <p>Is that to the high standard?</p>	<p>There are two different types of moorings directly out in front. There's the regular mooring field. In order to be on a mooring there, you must be a mooring permittee. If you're a mooring permittee and want to live aboard, then you would need a live-aboard permit. There are also sand line moorings that are closest to Marina Park and that are temporary and short-term. They're for traveling boaters or yachtsmen that want to come into the Harbor. Length of stay maximum, I believe, is 72 hours. It can be extended.</p> <p>The one line of moorings is owned by the City. All the rest are also owned by the City, if you will, but they're subject to annual permits.</p> <p>In answer to your question, the mooring permittee does have the right to sell that permit. He can sell his permit, his mooring if you will, under certain circumstances.</p> <p>It typically goes to market.</p>	<p>No comment.</p>



PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
The person that has the permit owns the tackle, the chain, the weight, the anchor, the float. The permittee has to keep that up. The service company has to come every two years to maintain all that so that it doesn't break. You are basically leasing that mud at the bottom of the bay, but you own the iron anchors and all that stuff.		No comment.
You own the expensive stuff.		No comment
<b>Section 17.40.100</b>		
<p>Why twice a month? If you live there by yourself, you don't need a service twice a month. Sometimes it is twice a month, but it depends on if there's five weeks in a month. On a regular basis, I go every three weeks. A lot of people do live alone out there.</p> <p>Maybe it could if there are two or more people, then it has to be twice a month. A single person can go three weeks or once a month or whatever. You have to take into consideration the size of the holding tank.</p> <p>\$30, \$35 depending on which company you use.</p>	<p>Change it to monthly?</p> <p>For my benefit, what is the cost of a pumpout?</p>	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
<p>In the middle, it says the log shall be submitted to the Harbormaster. Each live-aboard permittee is required to contract with an authorized commercial pumpout service. I think the majority of people just take it over to the boathouse dock and pump it out. Isn't that adequate?</p> <p>It seems like if you take your boat to the pumpout station and do it yourself, you still have to have a contractor to sign it off?</p>	We're talking about live-aboards only now.	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
Some people have much smaller boats. They're easy. We wash our boats on a regular basis. We have to fill up with water. Going to the	How many are live-aboards that are in the audience? Three. I'm curious because we're looking for your input as well. Is this	Added language to allow the Harbormaster to make alternative arrangements if

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
pumpout dock is a regular thing for some of the live-aboards.	putting the onerous on you to have to do this?	necessary to ensure there is no dumping into the harbor.
Our holding tank is large. We go about every two to three weeks.	The idea of proposing something in this vein was that the current system is the honor system. If we can craft something with folks who are power users of the Harbor because they're residing on the water, if we could move to something that is beyond the honor system, it will support the overall goals. Are there other suggestions that could be different than this?	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
This language does not serve that. You can make me do that. I have a service, so I can prove that I do. If somebody's not going to be doing it, there is going to be the honor system with people that don't use a pumpout service.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
How about the people that go to the pumpout log it with the Harbormaster through a phone call or VHF radio call?		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
This is an honor system. There are some not honorable people up there. Even people that come in and rent moorings from the City. If you put a device on the discharge that you can check at any time, there's no need for that to ever be changed for somebody that's living aboard and saying they're not traveling around and living here and maybe doing (inaudible). There's no reason why we can't have some kind of application like that. That way, you at any time could check and see that thing's in place. It should be done with people that come in and rent moorings from the City because they are probably some of the worst abusers.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
The twister could have broken. The only problem is that people will go out fishing all the time, and they're outside the (inaudible).	We don't find that live-aboards are actually going out and fishing. I raised that issue because I thought that was the right solution. The mooring	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	association was strongly opposed to it. I would still support that.	
I don't see how else, unless you make everybody have a mandatory service do it, which I don't think is fair.		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
My suggestion, they at least log it with the Harbormaster. If they're going to pump out, they call him and say, "I'm at the pumpout" or make a VHF call.	<p>That would be admin intensive.</p> <p>Do you think that's something you could handle?</p> <p>For the live-aboard community, I think we could because there are 51 live-aboard permittees.</p> <p>Those are the only ones that this pertains to.</p> <p>If we made it an "or" clause, so they either agree to use a commercial service and make the records available to the City or they agree to call us at the time they're conducting their pumpout.</p> <p>On their way, so there can be a spot check.</p>	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
There are only 51 people that are living aboard. Probably the majority of them do have a service. It's not going to be that ...		Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.
I just see a simple solution. First of all, most people are really good. If they have a live-aboard permit, they're not out there to abuse it. The way we've been going with an honor system is fine. At Staples for about \$2, you can get a 3x5 spiral notebook. If you have a service come by, they can sign the service or they're going to leave you a receipt. If you take it to the dock yourself, you can use the notebook. At the end of the year, you've got to renew your permit. Show them that book. At that time, you can see if it looks weird. You have to call the Harbormaster every time you have to use it?	There's a requirement of the live-aboards to keep a log now. Again, it's still the honor system.	Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>I can make a log, but it doesn't necessarily mean we did it.</p>	<p>That doesn't accomplish the goal. Kurt has a good idea. We could put an either/or clause in. Either you contract with a service, and they make their records available, or you call the Harbormaster and say, "I'm on my way to the pumpout at 15th Street," and they create a log.</p> <p>I think that's reasonable.</p> <p>Do we still want the one time a month or two times?</p> <p>At that point, it doesn't become an issue, I don't think.</p> <p>Right now, I'd say a minimum of twice as the way we word it.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>If you had a visiting family of five or six on a small boat with a 12-gallon holding tank (crosstalk). If you've got boats like ours, a 50-foot, and a huge holding tank and two of us, we're out and about.</p>	<p>I would advocate for monthly. Monthly is sufficient. It's either radio in or show proof of use of this commercial service.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>Besides just you making out a book?</p>	<p>I'm with you, ma'am. I'm not a fan of the log. That's easy to do.</p> <p>I would agree to monthly on an either/or basis.</p> <p>Let's do that. We'll go monthly.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>As far as a log, how about a requirement of cell phone camera picture to go with the log because those are time-stamped for people who want to do their own pumpouts. That would be more proof for the logs.</p>		<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>
<p>You could email a photo instead of a call.</p>	<p>I would personally support contact with the Harbormaster's office. The Harbormaster can certainly make sure it's happening, and then we know. We'll go monthly, and we'll put an either/or clause.</p>	<p>Added language to allow the Harbormaster to make alternative arrangements if necessary to ensure there is no dumping into the harbor.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<b>Section 17.40.110</b>		
<p>Is the Harbor now at 7% capacity on the moorings?</p> <p>We're capped out right now?</p>	<p>Yes. We have a wait list currently.</p>	<p>No comment.</p>
<b>Section 17.45.30</b>		
<p>The boarding at any time, have you guys talked about in general how you plan to approach that? In other words, it's a little concerning thinking at midnight you can board. I know that's not going to happen. Has there been any discussion on the setup on that?</p>	<p>We have discussed it. We've debated it. There's a certain protocol that will need to be followed, but that's on the operational level. The Coast Guard has the right to board a vessel at any time. The Orange County Sheriff's Department has the right to board a vessel at any time. The purpose for boarding a vessel is to make sure that there's no discharge. Typically, if there is discharge and it's illegal, it's probably being done not in the middle of the day on a Sunday afternoon with paddleboarders and boaters going by. If you don't have a little teeth in the regulations, it's not going to do any good. We all want to clean our Harbor. We're all boaters. You're more than welcome to board my boat at any time, anywhere and drop a dye tablet. I would ask that every other boater in Newport Harbor respect the same.</p>	<p>No change to proposed language.</p>
<p>It wouldn't be routine? It would be if you suspect or see or report somebody or something like that? You're not just going to be going out boarding boats in the middle of the night?</p>	<p>As we've gone through this process, there are plenty of regulations already in the Code. We're not trying to add regulation. We're not trying to add burden. We're trying to address a few key problems. The real issue is enforcement. There has been no enforcement in this Harbor for many, many years. Now that the City has taken back the Harbor, we have the opportunity. Once the word gets out that some of these regulations are being enforced, those who are violators will realize that it's time to clean up their act. That's our hope. What</p>	<p>No change to proposed language.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>we really need obviously is more enforcement. We need our City Council to provide us with the tools we need to enforce the current regulations.</p>	
<p>When those party boats come into our Harbor, can we add a few of those dye things? I've heard that is one of the problems.</p>	<p>Any vessel that's operating for charter, a party boat if you will, must have a marine activities permit. The requirements on those vessels are much more stringent than on a privately owned vessel. To my knowledge, there aren't any commercial boats that would be a party boat and are coming into the Harbor and then leaving. They're all berthed here. As such, they're subject to having a marine activities permit. Quite frankly, we've met now with two of the major charter vessel operators. They're already adhering to all the provisions in our Code in terms of graywater and blackwater. We were actually pretty pleased with those meetings. We will be revising that section of the Code that deals with the marine activities permit as part of this process.</p> <p>Two points of clarification. There are charter boats that do come into the Harbor for short periods of time, especially around special events. They are not all berthed here. Second, the language that's being inserted in here related to the use of dye tabs and especially the boarding and the suspicion is being vetted through the City Attorney's Office. The City Attorney's Office has given great guidance on who can administer a dye tab, when, and under what procedure. It's not called out right here, but it is called out elsewhere in the Code. It has to be a Code Enforcement Officer, and it has to be with reasonable provocation.</p>	<p>No change to the proposed language.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<b>Section 17.50.20</b>		
In 17.50.20, the application for the Harbor development permits, it looks like a specification of what you have to supply. Is that being removed? Is that somewhere else?	It's all now referencing 17.05.115. Yes, it is.	No comment.
<b>Section 17.50.120</b>		
<p>In the last section, about maintenance permits, is there a definition somewhere of maintenance? It's an unusual new requirement. For somebody doing maintenance, do you require a permit?</p> <p>This seems to say you need a permit for any maintenance. Even a little touch-up paint would seem to be maintenance and now requires a permit.</p>	<p>Yes.</p> <p>I believe the Local Coastal Plan provides that the City can issue maintenance permits provided that the work doesn't exceed 20 percent of the overall value of the improvement.</p> <p>Whereas minor and cosmetic in nature, painting is okay.</p> <p>Anything under 20, the City is allowed to issue the permit.</p> <p>Mr. Mosher is correct. If you're going to pull up two boards, paint them, and put them back, you need a permit for that now. If you're going to replace the finial on your pile, you're going to need a permit to repair the finial.</p> <p>I would suggest we add the words "which would require a permit."</p>	This is defined in the definitions in section 17.01
My question is what is the threshold for requiring a permit. Is it the percentage of value you talked about or square footage?	<p>I can't answer that. I believe it would be dealt with in the same manner as land-based improvements, but I can't tell you ...</p> <p>We could consult with Public Works.</p> <p>Let's get somebody in Public Works to do that for us because they're the ones issuing the permit anyway.</p> <p>I could see striking that entire first sentence. It's superfluous.</p>	See Maintenance definition in Section 17.01



PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	Let's get a ruling from Public Works.	
Is part of the issue standard maintenance versus a repair versus an improvement?	<p>Correct. I don't think we want to deal in Title 17 with a whole litany of repairs and maintenance items and specify which need a permit and which don't. If you want to repaint your gangway rails when you're doing the siding on your house, you don't need a permit for that. On the other hand, if you have to replace a float under your pier, maybe you do need a permit. That determination, I believe, is made in this particular case by Harbor Resources.</p> <p>Public Works.</p> <p>Harbor Resources under Public Works.</p>	See Maintenance definition in Section 17.01
If I wanted to repaint the rails on my dock, I don't need a permit. If I need to replace a few boards, I do.	To be honest, we don't know the extent of repair. If I needed to replace a plank or two on my dock, I wouldn't go ask for a permit. I would just get it done. On the other hand, if the floats underneath needed to be replaced, I would rely on my dock contractor to tell me whether they need a permit. We'll work on this. We'll get input from Public Works. By the time we come back to the Harbor Commission, we'll have resolution on this, or let's say guidance.	See Maintenance definition in Section 17.01
<b>Section 17.60.40(B)(1)(c)</b>		
	We talk about the multiple vessel mooring system program. It says the Harbormaster can approve that for the yacht clubs. In the definitions in the first half of this revision, we changed the definition of multiple vessel mooring system to include all the double points as well. It could be anywhere in the Harbor that you can approve it. I think this paragraph needs to be removed.	No change proposed.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Instead of removing it, we could say the Harbormaster has the authority to do this for the yacht clubs and any individual permitholder anywhere in the Harbor. I'm going to advocate for removal.</p> <p>Because it's covered elsewhere?</p> <p>The definition is covered elsewhere. The language that gives you [the Harbormaster] the authority to issue the permit is nowhere but here, but it doesn't belong here specific to the yacht club. It either needs to be broadened and moved elsewhere or removed.</p> <p>Since the Harbormaster does have the right to either issue or deny, I would propose removing the language with respect to the yacht clubs and leaving it in offshore mooring fields.</p> <p>In (B), we give him the authority to issue and then in (1) we talk about some exceptions.</p>	
I think it's an exception.		No comment
It's to give the yacht clubs a little flexibility on how they pass out the moorings. If they don't have that exception, they'll have to every single time go get a whole permit.		The yacht clubs have a master agreement with the City on the number of moorings they manage.
That's the exception to the two mooring permit limit.	<p>It was really to allow the yacht clubs to do this pilot program. The pilot program has been a success, and so we've expanded the pilot program to be Harbor-wide. It's not unique to the yacht clubs.</p> <p>If you go to the previous page where we're talking about mooring permits, Paragraph B and then Item 1 below is exceptions. Exceptions deal strictly with Balboa Yacht Club and Newport Harbor Yacht Club.</p>	No proposed changes.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>Sub a, Sub b, and Sub c as such are only dealing with Balboa Yacht Club and Newport Harbor Yacht Club. From a drafting standpoint, this is correct. From an operational standpoint, you are correct. The Harbormaster should have the ability to approve the multiple vessel mooring system elsewhere in the Harbor. Then, the question becomes does that need to be added somewhere else.</p> <p>I believe so. That authority has never been granted anywhere in the Code other than right here. That in conjunction with the definitions as it used to read were consistent, but now the definition in 17.10 says you can have this anywhere you want. We need to pull this out and put it someplace else.</p> <p>I would leave the language that's currently in alone because it's under the exceptions that deal strictly with Balboa Yacht Club and Newport Harbor Yacht Club.</p> <p>They're no different than any other permitholder.</p> <p>We should add a provision that allows the Harbormaster to issue a permit for multiple vessel mooring systems elsewhere in the Harbor.</p> <p>That goes where? Back up to (A)? Why do we need to be so specific? I think it just comes out. If somebody comes to you and says, "I want to put a multiple vessel system on my mooring. I am the permitholder on G-22," you evaluate it, look at the engineering, and say yes or no, as opposed to "I want to put a Cal 40 on there." I think it just goes away.</p> <p>I'm going to change my opinion now that I've read through each</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>of these. You could put a period after "mooring areas" and delete "at Newport Harbor Yacht Club and Balboa Yacht Club" and be okay.</p> <p>I'm good with that. Let's strike "of Newport Harbor Yacht Club and the Balboa Yacht Club." That gives our Harbormaster vast powers of approval.</p>	
<b>Section 17.60.30</b>		
<p>This is a chapter about permits and leases. The section just before this was entitled "Pier Permits for Noncommercial Piers." Taking the big picture, structural view of the Harbor Code, it seems a little strange that in this chapter you find something about noncommercial piers. If you want to find the rules for commercial, they're not in here. Presumably, they're in some totally different section of Title 17. I have a little trouble with this not being the comprehensive section about leasing Harbor water. It covers moorings, houseboats, noncommercial piers. Nothing in here about commercial piers, which I'm sure is in Title 17 somewhere.</p> <p>I think there is a section about commercial piers, but it's in a different chapter of Title 17.</p>	<p>Why wouldn't we just take that reference to noncommercial out?</p> <p>Right. Why isn't it just pier permits?</p> <p>Mr. Mosher, I don't think there is. If we look at the very beginning, 17.60.010, public trust lands, if we go down to the last sentence that's been added, it says "this chapter applies to permits or leases for public trust lands used for commercial purposes by an entity other than the City, pier permits for noncommercial piers, and mooring permits." I believe this is language that's been added by Legal and that we just got yesterday. The intent of this language is also to cover commercial piers.</p> <p>But they didn't.</p> <p>As we go through this word-for-word, Mr. Mosher makes a good point. If we're referring to noncommercial pier permits in 17.60.30, there should also be a provision for commercial permits elsewhere or the reference to noncommercial should be deleted and they all should be lumped together.</p>	<p>Added language confirming non-commercial piers.</p>
<p>One thing to be aware of is I believe there are people who pulled commercial permits but don't own the abutting land.</p>	<p>That is true.</p> <p>How that all factors in, I'm not sure, but that's true.</p>	<p>No comment</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
The person who would be issued the permit always has to own the abutting land.	Commercial permits in some cases—I wish I knew the answer to this—are subject to leases with the City.	
It sounds like you need a whole new section for commercial piers.	<p>I don't know whether this would be covered under the commercial lease. If so, I don't know that every commercial pier is subject to a lease with the City.</p> <p>That's the connection right there. If it is, then it's covered. If it's not and there are any loopholes in that, it would have to be covered here. We need to verify what is covered.</p> <p>We need clarification on that. I don't believe all commercial piers are subject to a lease, but they could be. Swales for example.</p> <p>That's County, not us.</p> <p>How about Cal Rec slips immediately north of the north side of Linda?</p> <p>That might be a private waterway or County.</p> <p>If it doesn't apply, then we leave that as a placeholder to be addressed.</p>	No comment, commercial piers have leases under the public trust lands, Section 17.60.60
<p>What's the significance of the date May 11, 2017? It comes up a couple of times.</p> <p>It's under the yacht club moorings only for those moorings assigned by the City within certain established mooring areas or locations prior to May 11, 2017.</p>	<p>I think that's when we established this department.</p> <p>Wasn't that July 1?</p> <p>Again, this came from Legal. We did not put this in there.</p> <p>My guess, there was an updated agreement with the yacht clubs that was dated May 11, 2017.</p>	This is the effective date of Ordinance 2017-7, which added language to the NBMC that revised section 17.60.030.
Some tidelands adjustment in '17 at the Coastal Commission?	<p>Not to my knowledge.</p> <p>There may have been a change in the rules associated with that. Prior to May 11, 2017, the yacht clubs might not have been</p>	See comment above

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>allowed to acquire more moorings. At this point, if the yacht club in their wisdom wants to acquire additional moorings, they're allowed to. Prior to May 11, 2017, a mooring might have had to have been in the name of a person or a trust, not in the name of an organization. That May 11 ordinance probably allowed, in the case of yacht clubs only, an organization to hold a permit.</p>	
<b>Section 17.60.40(F)</b>		
<p>One of the things on a transfer, if you pick up a 40-foot mooring, you didn't want to get a boat before you have a mooring. I was under the idea right now that you don't need to have a boat to pick up the mooring. Isn't that the way it is now?</p> <p>Is this rewritten so you actually have to have a boat in waiting to go on the mooring?</p> <p>You can pick up a mooring before you have a boat. It might take you 30 days or a year and a half. In the meantime, the City could use the mooring. That's the way it is right now.</p>	<p>Yes.</p> <p>No, it's not. The only change we made deals with requests for extension. If you own a mooring and you want to extend it because you want to get a bigger boat, you have to get a bigger boat within a certain amount of time. Not a mooring per se. You can leave a mooring vacant.</p>	<p>The subcommittee did not change the regulations regarding a boat on a mooring, however did add a section on when and how a mooring extension would be approved.</p>
<b>Section 17.60.40(H)(7)</b>		
	<p>If you had someone pick up a mooring for 15 days, shouldn't they be subject to inspection?</p> <p>If there's suspicion of discharge, of course.</p> <p>You already have the right with suspicion.</p> <p>I don't see another reason.</p>	<p>The revisions as proposed would allow the City to drop a dye tablet in any vessel in the harbor with a sanitation device.</p>
<p>The Harbormaster may grant extensions for longer than 15 days. You have no inspections on these boats that come in. There have been many times in the past where the boats were rented for</p>	<p>The Harbormaster has the authority not to grant an extension.</p> <p>I'm with you. The issue is there are two different types of vessels</p>	<p>You cannot legally rent a mooring without first checking in with the Harbor Department and providing the necessary paperwork.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>months, never moved, didn't run, got pushed on the moorings.</p> <p>I understand that. When somebody comes and they want to rent a mooring, you don't see the boat. You don't see what it even is. I've seen boats on moorings in the past for extended periods of time that didn't run, got pushed onto the moorings. They're not going to a pumpout dock, and they're not having the service. There were several.</p> <p>That might be. I'm just saying what I've watched happen in the last few years. Boats were on moorings for a few years, and these people were living onboard.</p>	<p>that might come into the Harbor for an extended period. When I say extended period, I mean more than two weeks. One would be a cruiser that's maybe going up and down the coast. The other would be a vessel that came in and that needs service in one of the yards and may be here for a period of time. That's the argument that we heard the other night.</p> <p>I'm okay with "may," but I'm not okay with "shall."</p> <p>Here is where we get back to enforcement. They can't live aboard for more than 72 hours, or they need a live-aboard permit. We're covered there. I'm sure it happened in the past. I know it happened prior to the City of Newport Beach taking over. Please lobby your Council Members and get more funding for the Harbor Department so that we can up the enforcement. The ultimate beneficiaries, in my opinion, are you all that are doing it right.</p> <p>Your point is very well taken. It can happen the way you're describing it.</p> <p>Do we require the Harbormaster to inspect that boat before he gives them a 15-day temporary permit when something goes wrong?</p> <p>If I'm the Harbormaster and a guy says he's going to take his boat into a shipyard and he doesn't know when they can get him in, I'm going to call BS on that.</p> <p>Are you going to do it only after an inspection? How do you handle it operationally? The guy has to come to the office at some point and pay his bill.</p>	<p>If someone is there illegally, code enforcement staff will address.</p>



PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>I don't have enough experience with this particular circumstance. The one example I do have is with an unnamed vessel where getting it into the shipyard became a protracted, difficult circumstance. Even collecting rent from the person became difficult.</p> <p>Let me play devil's advocate. In that particular case, would a mandatory inspection upon issuance of the first sub-permit have improved or changed that situation at all?</p> <p>I don't think so.</p>	
<p>In Avalon, you can pull up to the red boat so they know your boat's running and they get a chance to check it out. I don't know how our system works. Do they check in with one of the patrol boats on the water or do they go straight to the mooring?</p> <p>You don't have the staffing to have them meet one of the patrol boats?</p>	<p>They go straight to the mooring. We may come at a later point.</p> <p>I assume you're in radio contact with them and tell them they're going to pick up the mooring.</p> <p>Not universally at this point.</p>	<p>This is an operational issue that will be addressed by the Harbor Department.</p>
<p>They (inaudible) too because a lot of times they don't have the proper lines. It's like shoelaces tied together. It's a little scary.</p>	<p>These are all operational suggestions. The professionals within the Harbor Department can make the assessment. Writing it into the Code is not the right approach.</p>	<p>Harbor staff will review operational issues to ensure safety.</p>
<p>I think it's (inaudible) Harbormaster grant extensions only for 15 days. That gives him flexibility to adapt.</p>		<p>As proposed the Harbormaster may extend past 15 days.</p>
<p>Does the Harbormaster have the discretion to deny a sub-permit? It's in the Code?</p>	<p>Yes, because the boat has to be operable.</p>	<p>The Harbormaster has always had the authority to deny a sub-permit. This is in the rental agreement.</p>
<p><b>Section 1760.40(H)(9)</b></p>		
<p>Let's say you belong to the Cruising Club of America. You could say somebody different could come every weekend that was really the Cruising Club of America, but they're all different boats and different people. You</p>	<p>If you own the mooring, you have the ability to let someone else use it. If you do, that person or boater will be required to pay a fee to the City. You can't let somebody use your mooring for free. You can allow them to use</p>	<p>Staff response is correct.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
could do that and give them the mooring? Maybe they might feel like giving you some money.	it. It's like owning a mooring in Avalon. You can call ahead and say Commissioner Blank is going to use my mooring this weekend. Because he doesn't own the mooring, he has to pay.	
<p>If I have a mooring and it's vacant, I could bring a friend that has a boat in Long Beach and come down. I'm not saying he's going to live on it. They could come into town and stay on the boat on my mooring for free, which I'm not using at the time, for 30 days. That's all been stricken out?</p> <p>Besides that, which I thought was just completely out of line, was the raising of the fees to rent a mooring. The daily fees went up astronomically. Are those fees still at those levels?</p> <p>I've got my friend in Long Beach who'd like to keep his boat because he lives in Newport. It would be nice for him to bring his boat here and leave it on my vacant mooring. If you had had a different pay schedule for that situation—how many boats are even renting moorings after the fees went up compared to what it was before? The fees went up by like 300 percent. It's not a dock. Is the Harbor really making a ton of money on raising those fees?</p> <p>I own the mooring, and my friend's going to pay \$350 a week. He can go to the anchorage, and that won't cost him.</p> <p>Not that many people are using this feature.</p>	<p>They can't stay on it for free.</p> <p>That's correct. That's the proposed change.</p> <p>There are two separate issues. Number 9, we struck "for free." Here's the deal. You can loan your mooring to anyone you'd like, just as you could if you owned a mooring in Avalon.</p> <p>We're a little far afield from this discussion. The fees went from \$16 per night for a 40-foot boat to \$50 per night. That is an increase of 300 percent, but it is still commensurate with other harbors in our general demographic area. That fee schedule was vetted by the City Attorney's Office and the City Council and everybody else.</p> <p>He can go to the anchorage for three days.</p>	<p>A mooring cannot be loaned for free. Once a mooring is vacant it, the City has the right to rent out the mooring, not the permittee.</p> <p>This language was removed as it is the experience of the Harbor Department, that this was being abused by a number of permittees and creates code enforcement issues.</p>
Just thinking out loud. What if that was a 50 percent jump? In that case, his buddy gets a discount. The theory is the fee's pretty high right now. Who knows if it's priced right? His question is are they getting rented out. While you're playing with all this, could that be a	This is an item we discussed at length. The counterpoint is the mooring permittees are out there renting their moorings and taking a cut of the profit.	Permittees not using their moorings for more than 30 days may have their mooring rented by the City. We do not want to create an underground rental market for staying in the harbor.

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
<p>50 percent (inaudible) as far as loaning it out?</p> <p>This is a concern about people renting them out and taking ...</p>	<p>We want the people on the moorings to be boaters who own and use their boats.</p>	
<p>I'd like to clarify that the anchorages have a maximum of three days (crosstalk) five days.</p> <p>If Joe wanted to go on one of my moorings and I loaned it to him, he would have to pay \$1.25 per foot per night for his boat on my mooring, correct?</p>	<p>That is correct without a permit, 72 hours without a permit.</p> <p>Correct.</p>	<p>Staff response is correct.</p>
<p><b>Section 17.60.60</b></p>		
	<p>Here are the large commercial marinas.</p> <p>This requires a commercial marina, Mr. Mosher, to enter into a lease or permit with the City. I think Ms. Jacobs would tell us that every commercial marina has an agreement with the City. That's why they would be dealt with differently than a noncommercial pier. Don't know that for sure.</p>	<p>All commercial marinas have lease agreements with the City.</p>
<p>It looks like, in that case, the title may need a little adjustment because the title says public trust lands.</p>		<p>No change.</p>
<p>It still doesn't say commercial piers. It's in (A) actually.</p>	<p>Let's add a title, make this a bulleted, bold section that says "provision for commercial marinas."</p> <p>Let's make sure that's the case.</p> <p>How about "leases, permits including commercial marinas"?</p> <p>I want to make sure this doesn't refer to noncommercial piers because noncommercial piers are also on public trust lands.</p> <p>Is there another example besides a residential that's a noncommercial? It's either</p>	<p>The City has a defined area of responsibility for all public trust tidelands within the harbor. If you read the section, only commercial property is referred to.</p>

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	<p>residential or commercial, or is there some other category? Previously we said residential noncommercial.</p> <p>Now, we're getting sticky. You can have a residential pier. You could have a residential dock, which is a dock that's permitted in front of a residential use, but it can be a commercial marina if the resident chooses to call it so.</p> <p>In which case, rates are different, and you have a lease, not a permit.</p> <p>I can't answer that. I think you're right.</p> <p>I'm confident in answering it that way.</p> <p>I would agree that the title is misleading. Should it say something like "commercial marinas and piers on public trust lands"?</p> <p>Okay.</p> <p>17.60.60 and 17.60.10 have the same title.</p> <p>The heading of 17.60.60 in the table of contents says Lease/Permits of Public Trust Lands.</p>	
<b>Section 17.65.40(F)</b>		
	<p>That's not right. If you go back to the bottom of page 35, it says the written decision of the Harbor Commission shall be served on the appellant within five working days after the decision. Most likely there should be a period there. It should say "the written decision of the Harbor, Public Works Director, Community Development Director, and/or Harbormaster as applicable shall be served within five working days."</p>	

PUBLIC COMMENT	STAFF RESPONSE	SUBCOMMITTEE RESPONSE
	You are correct.	
<b>Section 17.70.20(C)</b>		
	<p>Where did Hearing Officer come from?</p> <p>It's nowhere else in the provision, so I think it's leftover. I think we can strike that.</p> <p>There is no Hearing Officer. We got rid of all that.</p>	The Hearing Officer reference has been removed.

Commissioner Kenney advised that the proposed changes will be revised as discussed. The subcommittee will reconvene and be prepared to make recommendations for this portion of Title 17 to the full Harbor Commission. If the Harbor Commission approves the subcommittee's recommended changes or modifies and then approves the changes, they will be presented to the City Council for review and approval. The public can testify before the Harbor Commission and the City Council. The public can also submit written comments through a designated website. Commissioner Yahn added that public comments are available for review on the website.

In response to a request for the Harbor Commission's rationale for not increasing the time limit for mooring permittees to remain on their vessels, Commissioners Kenney and Yahn shared their perspectives of the Harbor Commission's rationale.

Joe Ring [phonetic] remarked that increasing the number of nights would not result in boat owners living on their boats. The problem seems to be the increase from three nights to twelve nights. Maybe something between the two could be considered.

Members of the public suggested a special permit for mooring permittees to stay aboard for perhaps seven nights or a mooring permittee contact the Harbor Office to report he will be staying onboard for four or five days.

Commissioner Kenney indicated members of the public could present proposals for some type of short-term permit to the Harbor Commission.

**Biddle, Jennifer**

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**From:** P+B C. <patandbud@gmail.com>  
**Sent:** Friday, July 26, 2019 12:15 PM  
**To:** Title 17 Review  
**Subject:** Vessel discharge

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Harbor Commissioners,

After attending a few of the meetings reviewing title 17 I'd like to thank you for all the discussions on so many of the issues. I appreciate your listening to all the thoughts many of us have and I understand you won't please everyone but, hopefully, will please most.

In regards to section 17.40.100, the discharge log, I'd just like to reiterate what was mentioned at a few of the meetings but seems unclear in the recent draft. It reads the live-aboard permittees can use the pump out facilities and keep a log, however, it then states we are required to contract with a commercial service for a twice a month service. It was discussed at a couple of the meetings that a few of us live-aboards that routinely and responsibly use the pump out dock to not only discharge waste but fill our water tanks and a quick washing of our vessels would not have this requirement with verification. We would continue to do this despite being required to pay a service simply because we need to fill with water and we want a clean boat. I hate spending money on something I do not need so I'm hoping the wording can be such that we have the choice. I have no problem with a verification that the live-aboards are doing the right thing, perhaps a call to the office while at the dock which could be matched to the log turned in at the renewal request. This was mentioned at at least two of the meetings and it appeared to be verbally accepted by the committee. I very much hope the wording to this section can be such that us responsible permittees will have the choice.

The other consideration with the required twice a month contracted pumpout is that each situation is different. There are single people with large holding tanks, families with small holding tanks, and people off their boats for days and even weeks at a time. I believe we all are doing the responsible thing and discharging properly as needed but then I want to believe that is the case with all the approximate 9,000 boats in the bay which, of course, could not possibly be verified.

We live-aboards have the most to gain with a clean bay and the most to lose (our home) if doing the wrong thing.

Thank you in advance for your consideration, Sincerely, Herman (Bud) Coomans, mooring H813



# **CITY OF**

# **NEWPORT BEACH**

## **Harbor Commission Staff Report**

August 14, 2019  
Agenda Item No. 7.2

**TO:** HARBOR COMMISSION

**FROM:** Kurt Borsting, Harbormaster, 949-270-8158  
[kborsting@newportbeachca.gov](mailto:kborsting@newportbeachca.gov)

**TITLE:** Harbor Commission 2018 Objectives (Revised July 2019): Ad Hoc Committee Updates

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### **ABSTRACT:**

Each ad hoc committee studying their respective Functional Area within the Commission's 2018 Objectives, revised July 2019, will provide a progress update.

### **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;
- 2) Add Commissioner Ira Beer to Object 4.1 and remove Commissioner Yahn from Objective 4.1 to more equally assign subcommittee responsibilities; and
- 3) Receive and file.

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

The Harbor Commission revised its 2018 Objectives at the meeting of July 10, 2019. During the discussion, the Commission noted that Objective 3.2, 4.2 and 5.2 are complete. The Commission also decided that Objective 2: Evaluate current enforcement



of applicable City codes throughout the harbor and Objective 3.1: Evaluate potential enhancements to city amenities provided to mooring permittees, residents, and visitors and 3.2: Establish policies for modifications to mooring size should be combined. The Objectives were renumbered to reflect the combining of Objective 2 and 3.

**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, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**ATTACHMENTS:**

Attachment A – Harbor Commission 2018 Objectives, Revised July 2019



## City of Newport Beach

### Harbor Commission Purpose & Charter

Newport Harbor supports numerous recreational and commercial activities, waterfront residential communities and scenic and biological resources. The purpose of the Harbor Commission is to provide the City of Newport Beach with an advisory body representing these diverse uses of Newport Harbor and its waterfront.

1. Advise the City Council in all matters pertaining to the use, control, operation, promotion and regulation of all vessels and watercraft within Newport Harbor.
2. Approve, conditionally approve, or disapprove applications on all harbor permits where the City of Newport Beach Municipal Code assigns the authority for the decision to the Harbor Commission.
3. Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters where the City of Newport Beach Municipal Code assigns such authority to the Harbor Commission.
4. Advise the City Council on proposed harbor-related improvements.
5. Advise the Planning Commission and City Council on land use and property development applications referred to the Harbor Commission by the City Council, Planning Commission, or the City Manager.
6. Make recommendations to the City Council for the adoption of regulations and programs necessary for the ongoing implementation of the goals, objectives, policies of the Harbor and Bay Element of the General Plan, the Harbor Area Management Plan, and the Tidelands Capital Plan.
7. Advise the City Council on the implementation of assigned parts of the Tidelands Capital Plan such as:
  - Dredging priorities
  - In-bay beach sand replenishment priorities
  - Harbor amenities such as mooring support service areas and public docks

### Harbor Commission - 2019 Objectives

The following objectives are intended to support the mission of the Harbor Area Management Plan and the two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.

These calendar year 2019 Objectives are subject to the review and approval of the Commission, and final approval by the Newport Beach City Council. Harbor Commission ad hoc committees, as established by the Commission, bear principal responsibility for coordinating the Commission's efforts, along with staff support, in achieving these Objectives.

**City of Newport Beach - Harbor Commission**  
**2018 Objectives**  
Updated July 10, 2019

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2019 Objectives	Functional Area
<p><b>1.1 Identify sustainable low-cost solutions to dredge the deep-water channels throughout the harbor.</b></p> <p><b>1.2 Identify opportunities to streamline the RGP54 permit process.</b></p> <p><b>1.3 Evaluate options for near shore dredging. Establish a sustainable program that consistently nourishes harbor beaches on a yearly basis.</b></p>	<p><b>1.0 Harbor Dredging</b>  (<i>Cunningham</i>, Marston)</p> <p><i>Advise the City Council on:</i></p> <ul style="list-style-type: none"> <li>○ <i>Dredging methodologies</i></li> <li>○ <i>Dredging priorities</i></li> <li>○ <i>Eelgrass protection</i></li> <li>○ <i>Beach re-nourishment</i></li> </ul>
<p>*Functional Areas 2 and 3 (combined 7/10/19)</p> <p><b>2.1 Evaluate current enforcement of applicable City codes throughout the harbor. Report back to Commission by July.</b></p> <p><b>2.2 Evaluate potential enhancements to city amenities provided to mooring permittees, residents and visitors.</b></p> <p><b>2.3 Establish policies for modifications to mooring size.</b></p> <p><b><u>Future Priorities</u></b></p> <ul style="list-style-type: none"> <li>A. Work with Harbormaster's office to evaluate mooring management and oversight.</li> <li>B. Identify and address derelict vessels in the harbor.</li> <li>C. Complete evaluation for establishing day moorings off Big Corona beach.</li> <li>D. Evaluate options to consolidate and reduce the footprint of current mooring fields.</li> </ul>	<p><b>2.0 Harbor Operations, Management, Amenities, and Capital Improvements</b>  (<i>Beer</i>, Yahn, Scully)</p> <ul style="list-style-type: none"> <li>○ <i>Matters pertaining to use, control, operation, promotion, regulation of all vessels and watercraft.</i></li> <li>○ <i>Advise the City Council on proposed harbor-related improvements.</i></li> <li>○ <i>Advise the City Council on harbor amenities such as mooring support service areas and public docks.</i></li> </ul>
<p><b>3.1 Review and update City Municipal Codes, Title 17, Harbor Policies 1-5 and Marine Activities Permits.</b></p>	<p><b>3.0 Harbor Policies, Codes, Regulations</b>  (<i>Kenney</i>, Blank, Yahn)</p> <ul style="list-style-type: none"> <li>○ <i>Approve, conditionally approve, or disapprove applications on all harbor permits.</i></li> <li>○ <i>Serve as an appellate and reviewing body for decisions on harbor permits, leases, and other harbor-related administrative matters.</i></li> </ul>

**City of Newport Beach - Harbor Commission**  
**2019 Objectives**  
Updated July 11, 2019

2019 Objectives	Functional Area
<p><b>4.1 Establish a dialogue with representatives of the Harbor Charter Fleet industry, other commercial vessel operators and rental concessionaires to promote best practices for charter and commercial boat operations in Newport Harbor with particular attention to vessel specifications, noise and pollution control/compliance and long-range plans for berthing.</b></p>	<p><b>4.0 Commercial, Recreational and Educational Activities (Yahn, Kenney, Marston)</b></p> <ul style="list-style-type: none"> <li>○ <i>Matters pertaining to use, control, operation, promotion, regulation of all vessels and watercraft.</i></li> <li>○ <i>Serve as an appellate and reviewing body for decisions of the City Manager on harbor permits, leases, and other harbor-related administrative matters.</i></li> </ul>
<p><b>5.1 Draft a Harbor Plan that can be used independently or in conjunction with an update to the General Plan and/or Harbor Area Management Plan (HAMP). Specific attention should be paid to state requirements including conservation for harbors, MLPA/MPAs and fisheries and work previously done by the Harbor Commission related to preservation of marine related activities and businesses in Newport Harbor and the Harbor Financial Master Plan.</b></p> <p><b><u>Future Priorities</u></b></p> <p>A. Create a Vision Statement for the Harbor describing the purposes, uses and characteristics in the year 2050. Reference how that Vision aligns with the current two most essential responsibilities of the Harbor Commission: (1) Ensuring the long-term welfare of Newport Harbor for all residential, recreational, and commercial users; (2) Promoting Newport Harbor as a preferred and welcoming destination for visitors and residents alike.</p>	<p><b>5.0 Long Term Vision for Harbor (Harbor Strategic Planning) (Blank, Cunningham, Scully)</b></p> <ul style="list-style-type: none"> <li>○ <i>Advise the City Council on the City General Plan.</i></li> </ul>

\*Numbering of Objectives was changed to reflect the combining of Objectives 2 and 3 at the Harbor Commission Meeting of July 10, 2019.



# CITY OF NEWPORT BEACH

## Harbor Commission Staff Report

August 14, 2019  
Agenda Item No. 7.3

**TO:** HARBOR COMMISSION

**FROM:** Kurt Borsting, Harbormaster, (949) 270-8158  
[kborsting@newportbeachca.gov](mailto:kborsting@newportbeachca.gov)

**TITLE:** Harbormaster Update – July 2019

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### **ABSTRACT:**

The Harbormaster is responsible for the management of the City's mooring fields, the Marina Park Guest Marina and Harbor on-water code enforcement activities. This report will update the Commission on the Harbor Department's activities for July 2019.

### **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) Receive and file.

### **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

### **DISCUSSION:**

#### **July 4<sup>th</sup> Harbor Activities**

Boating and beach activity were heavy in Newport Harbor on Independence Day 2019. July 4<sup>th</sup> festivities began at 12:30 pm with the American Legion Yacht Club's Old Glory Boat Parade, with high use of the bay continuing throughout the day. Heavy use of the waterways wrapped up with the evening's fireworks display. The Harbor Department scheduled additional resources for the holiday, staffing on-water patrols until 9:30 pm. Harbor Department services were well utilized, and the day's activities were largely free of incident.

### **Harbor Awareness in Lifesaving Techniques (HALT)**

On Sunday, July 14 and on Monday, July 22 Brandon Hodding from the City's Lifeguard team organized awareness and lifesaving techniques training sessions for Harbor Department service workers and leads. The two-hour program provided classroom instruction and field experiences with on-water lifesaving techniques. The program's emphasis was on strategies staff could deploy to assist those in distress without putting themselves at risk of injury. The training sessions were well received by staff and have resulted in several operational changes within the department.

### **On-Line Reservation Requests for Guest Slips and Short Term Mooring Rentals**

On Wednesday, July 17 the Harbor Department staff met with Avery Maglinti, Jackie Luengas-Alwafai and Micheal Wojciechowski from the City's IT team, where they demonstrated an on-line reservation request system they developed for harbor customers interested in renting guest slips at Marina Park or booking short term mooring rentals.

System updates based on feedback received from the department at our meeting and final testing efforts are currently underway. The new on-line functionality is expected to 'go-live' sometime in mid- to late August, and will be available both on the Harbor Department's website and the mobile "My Newport Beach" app. Once launched, this on-line reservations functionality will represent a significant 'after business hours' customer service to harbor users.

### **Public Information and Departmental Outreach Efforts**

Meetings with community stakeholder groups and participating with local media outlets continued during July 2019. Taking advantage of these 'get the word out' opportunities has assisted the department in informing the general public about the Harbor Department and its mission.

On Tuesday, July 9 the Harbormaster participated in filming an interview segment of "On the Village Green with Nancy Gardner", a community television program that appears on local access. The segment has since aired, which presented an overview of the Harbor Department's functions and focused on how boaters and community members can contribute to maintaining quality environmental standards in the Harbor.

On Wednesday, July 10, the Harbor Department hosted Jo Kwon, a reporter from Spectrum 1 News, as she filmed a "Day in the Life of the Newport Beach Harbor Department" segment. Ms. Kwon was paired with two of the Harbor Department leads, one performing typical patrol duties out in the bay, and the other assisting visitors in the Marina Park guest slips. A future air date for segment is expected.

On Thursday, July 11 the Harbormaster was extended a speaking opportunity at a meeting of the Newport Harbor Exchange Club, and on Saturday, July 13 at the Little Balboa Island Property Owners Association. Both presentations focused on providing overview information about the Harbor Department, as well as taking questions from community members. Both meetings were well attended and the presentations were well received.

### **Department Patrol Vessel Procurement**

During July 2019, with the assistance of Public Works and Finance Department staff, a request for proposals (RFP) process was conducted for the procurement of two Harbor Department patrol vessels.

A staff recommendation will now advance to City Council, to purchase two (2) Maritime Patriot 210 patrol boats. These vessels are each 20'9" in length, with center console design and are equipped with 115 horse powered outboard engines. An approximate twenty week lead time is expected for the fabrication and delivery of the vessels. As proposed, these vessels would replace the two catamaran patrol vessels currently used by the Harbor Department, which are rented by the City through an agreement with a local non-profit organization.

### **Customer Satisfaction Survey**

During July 2019, twenty (20) customer satisfaction surveys were completed and returned to the Harbor Department office associated with visiting boaters at the Marina Park Guest Slips. A summary of the feedback/data received from these customers is shown in Attachment A.

### **Code Enforcement Activity**

During July 2019, Code Enforcement staff opened 114 new cases and successfully resolved/closed 74 existing files.

### **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 – Marina Park Guest Slip Customer Survey Results for July 2019  
Attachment B – Harbor Department Statistics, Fiscal Year through July 2019

**Marina Park Guest Slips**  
**Customer Satisfaction Survey**  
**Responses for July 2019**

**Question #1 - My experience was as a...**

Visiting Boater = 16 (80%)  
 Local Boater = 4 (20%)  
 Other = 0 (0%)

**Question #2 – Overall, I was satisfied with my stay...**

Strongly Agree = 17 (85%)	Somewhat Disagree = 0 (0%)
Agree = 2 (10%)	Strongly Disagree = 0 (0%)
Neutral = 0 (0%)	No Response Given = 1 (5%)

**Question #3 – I received the quality and value I expected for the cost...**

Strongly Agree = 15 (75%)	Somewhat Disagree = 0 (0%)
Agree = 3 (15%)	Strongly Disagree = 0 (0%)
Neutral = 2 (10%)	

**Question #4 – I was pleased with the overall appearance and condition of the Marina Park Guest Slips...**

Strongly Agree = 20 (100%)	Somewhat Disagree = 0 (0%)
Agree = 0 (0%)	Strongly Disagree = 0 (0%)
Neutral = 0 (0%)	

**Question #5 – Please check all of the services that you used during your stay...**

Restrooms/Shower = 18 (90%)	Lighthouse Bayview Café = 13 (65%)
In-Slip Pump Out = 9 (45%)	On-Site Beach, Playground or Park Areas = 13 (65%)
On-Site Washer/Dryer = 7 (35%)	Nearby Dining, Entertainment or Commercial = 18 (90%)
Complementary Wi-Fi = 14 (70%)	

**Question #6 – The condition of the restroom/shower...**

Excellent = 13 (65%)	Below Par = 2 (10%)
Good = 2 (10%)	Unacceptable = 1 (5%)
Just OK = 1 (5%)	No Response = 1 (5%)

**Question #7 – The condition of the Marina Park facilities and grounds...**

Excellent = 18 (90%)	Below Par = 0 (0%)
Good = 0 (0%)	Unacceptable = 0 (0%)
Just OK = 0 (0%)	No Response = 2 (10%)

**Question #8 – I was satisfied with the level of care and commitment shown by Harbor Department staff...**

Strongly Agree = 19 (95%)	Somewhat Disagree = 0 (0%)
Agree = 1 (5%)	Strongly Disagree = 0 (0%)
Neutral = 0 (0%)	No Response = 0 (0%)

**Question #9 – I will return and/or recommend your facility to other boaters...**

Strongly Agree = 18 (90%)	Somewhat Disagree = 0 (0%)
Agree = 1 (5%)	Strongly Disagree = 0 (0%)
Neutral = 1 (5%)	No Response = 0 (0%)



**Question #10 – Please tell us what you liked best about your stay at the Marina Park Guest Slips...**

- “Laundry”
- “Ryan is always amazing, he is always on top of things, remembers us. Very hard worker and we appreciate all he does!”
- “The staff was friendly, professional and helpful.”
- “Location”
- “Ryan and team were awesome!!!”
- “Everything was great”
- “Clean friendly and quality facilities. We harbor hopped to San Diego, and this was by far the best marina stay we got.”
- “Staff assisted us at docking and handled all of our questions. Very professional.”
- “Dock staff super helpful”
- “Your staff is extremely helpful”
- “Everything is in good condition and the staff is awesome.”
- “Staff was both friendly and helpful. Facility was top of the line and clean. Only exception – the restroom and showers.”
- “Ryan makes each and every one of our stays at Marina Park fantastic. He is extremely conscientious, friendly and helpful. We love and look forward to coming here whenever we can.”
- “Service”
- “Availability and access to nearby activities”
- “Ryan and crew are great!”
- “Outstanding staff – dock master and all staff friendly. Good facilities.”
- “Easy and very helpful”
- “Great location. Clean new facilities”

**Question #11 – Please tell us what was not up to par about your stay...**

- “An extra shower would be helpful”
- “2 key cards per slip”
- “Restrooms and showers were not clean. Need at least once a day cleaning”
- “The men’s restroom doesn’t have enough trash receptacles and toilet paper holders. The design of the TP holders caused paper to tear in one sheet that ends up on the floor.”
- “Upon our arrival no dock side assistance was available as we were told. All went OK without.”
- “Not pleased with the price increase, will definitely impact our ability to visit.”
- “Bathrooms showers need regular scrubbing. Noise inside light house café restaurant is really bad when busy . I think the price is high to stay here.
- “The parking guards for my four nights, I never saw stand up and ask people what was their purposed for coming in, just played with their phones.
- Washer is making a bad sound and cleaners do not mop the laundry floor. Fabric softener spill that is still there.”

**Question #12 – Comments / Suggestions**

- “Your staff is great, give them full time employment please.”
- “Staff is always helpful, we have mostly interacted with Ryan, he does an incredible job.
- “Additional bow cleats”
- “The staff is very friendly and helpful. My kids had a blast and so did my wife and I”
- “Power on slip 14 was out – Ryan called city for electrician. No problem as we were able to plug into 13”
- “Ryan is awesome”
- “We enjoyed our stay that we extended our visit. Just keep up the good work”
- “We had mechanical issues and So-Coast Shipyard came within one hour and fixed the problem. I don’t think the staff knows how valuable this company could be for your guests.”

- “Nice to have a spot in Newport to dock! Will be back.”
- “Ryan is fantastic. Pay him whatever it takes.”
- “We will be back. I am sure you will get the restroom problem fixed.”
- “Please make Ryan a full time employee. He is the best.”
- “We loved our time here. Free pump out and laundry were a great extra. As a past owner of a home in Marina Park, we are pleased with the land use and fine facility and outstanding staff.”
- “Need a recycle bin. Need ice machine, but no big deal.”
- “Would be great to add an additional washer and dryer in laundry.”

## Harbor Department Statistics Fiscal Year 2019-20

	July	August	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	YTD
Anchorage	45												45
Assisting Vessels Over 20'	4												4
Assisting Vessels under 20'	24												24
Bridge Jumpers	6												6
Daily Anchorage Check	141												141
Discharge/Pollution	3												3
Dock/Pier/Bridge Issue	14												14
Emergency	-												-
General Assist	35												35
Hazards/Debris	22												22
Impound	15												15
Incident	10												10
Mooring Assist	30												30
Mooring Check	229												229
Noise	3												3
Paddleboard/Kayak	247												247
Public Contact	147												147
Public Dock Enforcement	345												345
Pump Out	13												13
Sea Lions	36												36
Speeding	87												87
Swim Line	1												1
Trash	247												247
Rentals - Marina Park Slips	157												157
# of nights	397												397
Rentals - MP Sand Lines	11												11
# of nights	49												49
Mooring Sub-permittee	60												60
# of nights	377												377
<b>Code Enforcement</b>													
Notice of Violation	117												
Citations	6												
Verbal Warning	13												13
Closed Cases	74												74