

From: [Tom LeBeau](#)
To: [Beer, Ira](#); [Marston, Marie](#); [Scully, Steve](#); [Miller, Robert](#); [Svrcek, Rudy](#); [Williams, Gary](#); [Yahn, Don](#)
Cc: [Blank, Paul](#); [Harp, Aaron](#)
Subject: FW: Short Term now long term live-aboard.
Date: September 02, 2025 11:04:51 AM

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Honorable Harbor Commissioners,

This email is broken into 2 sections, they are related.

We respectfully request that HC step in and restrict the Harbormaster's ability to use any vacant moorings to bestow 2 week live-aboard status, then extend those 2 week periods over and over again without limitation. This practice essentially circumvents the existing cap of 51 live-aboard permits. Further, as part 2 of this email suggests we are seeking to open a conversation with and seeking the legal support/foundation from the City on the very existence of any live-aboard permits in the Harbor.

Thank you for your attention to this matter.

Tom LeBeau
1324 E Balboa Blvd
949 633 5154

From: Tom LeBeau <tlebeau@accretiverealty.com>
Date: September 1, 2025 at 5:55:10 PM PDT
To: Paul Blank <pblank@newportbeachca.gov>
Subject: Short Term now long term live-aboard.

Paul,

The new "2 week but forever" live-aboard one mooring east of A 141 has...

1. A dog aboard that barks.
2. A generator and propane on fore deck.
3. A generator that is very noisy.
4. Overall un-kept look of the deck of the vessel.

We are negatively impacted by this vessel and fail to appreciate the fact that you are essentially extending this mooring user and giving him live-aboard rights - every 2 weeks, without what appears to any end in sight. This activity essentially

renders permanent live-aboards in our harbor, wherever vacant moorings exist, skirting the cap of 51 live-aboard permits.

While we understand that you feel you have authority under MC T17 through the sub-permitting of any existing vacant mooring to allow mariners to live-aboard for up to 2 weeks. The issue here is simple; in the Harbormasters absolute discretion the Harbormaster may extend a 2 week short stay live-aboard to any vessel, every two weeks, for as many consecutive 2 week extension periods as the Harbormaster determines is appropriate. We are not aware of restrictions on the number of extension the Harbormaster may grant. As mentioned above, this activity undermines the 51 live-aboard permit cap and allows any number of vessels to live aboard on any vacant moorings where City sub-permits can be drawn. We believe that this authority was granted to the Harbormaster in an effort to afford visiting mariners safe harbor for a brief stay. Extending this short term live aboard privilege every consecutive 2 weeks, for months or years does not serve the public interest of the residents of the City, State of California or the stakeholders in this Bay. This must stop!

Again, we are merely asking that you move this sub-permitted vessel to another more suitable location in the Harbor (F Field). That would solve the most immediate problem. We will address the matter further with Harbor Commission thru the MC T17 update headed by HC Don Yahn.

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On a separate matter but shades of the same story, we have found several compelling arguments to open up a conversation with the City Attorney with the objective ending the live-aboard practice entirely within any portion of the State Tidelands. Those arguments include:

- Most recent State Lands Trust Findings (report issued in the last 2 weeks) seeking and directing the City to balance stakeholder rights - ie, residential docks cannot live-aboard, therefore neither should mooring permit holders nor live-aboard be allowed in any public marinas. This would include the existing 51 mooring Permittees who now have the permitted right to permanently live-aboard a vessel on an off shore mooring.
- Recent Case Law on Live-aboard - See Redwood City Houseboat Case.

Lack of Zoning authority within the City of NPB to grant exclusive and private residential use over public state property (essentially renting out pieces of what is an existing state park (ie State Tidelands) for exclusive use camping and private use housing)

- Recent 9th Circuit repeal by the US Supreme Court addressing camping in State or local parks. That is “the taking of public spaces for private use” such as overnight sleeping - has been determined by the US Supreme Court to be illegal.
- Lack of City/NPB zoning authority to grant residential units above water within the City limits. This is a potential, if proved, serious violation of the Subdivision Map Act.
- Lack of environmental review of impacts the 51 existing live aboard might have on the Harbor and the State Tidelands.
- Violation of CEQA; No known Negative Declaration finding has been determined, made by City Planning Staff, omitting the requirement for the preparation of an Environmental Impact Report (EIR)
- Lastly, the demonstrated political will of the Newport Beach City Council - see the approved language and absolute total restriction on live-aboard attached to the issuance of any new pending City Mooring License Agreements.

I have already started the conversations with several Harbor Commissioners and hope to continue our discussions together with the City Attorney and the City Council.

Thank you for your time.

Regards,

Tom LeBeau
1324 E. Balboa Blvd
949 633-5154 (Cell)

Sent from my iPad

From: [Shintaku, Cynthia](#)
To: [Blank, Paul](#)
Subject: Stakeholder Recommendations
Date: October 27, 2025 10:18:17 AM
Attachments: [image001.png](#)

Hi!

Just an FYI-I've received a few phone calls regarding this section of the title 17 recommendations:

17.60.040 Mooring Permits.

B. Issuance of Permit—Conditions.

2. Permit Requirements. ...

m. Agree not to advertise for rent, rent, assign, loan, or transfer the use of the mooring to any other person without prior written permission of the Harbormaster

There are a few individuals interpreting the above sentence as- they will be able to start renting out their moorings once permission is received from the Harbormaster.

Thanks,



Cynthia Shintaku
Management Analyst
Harbor Department
Office: 949-270-8159
1600 W. Balboa Blvd.
Newport Beach, CA 92663



**City of Newport Beach
Harbor Commission
Title 17 Review Subcommittee
2025 Items Under Consideration and Ready to Review with Stakeholders**

SUGGESTED REVISION 001

There is a discrepancy in the code over who has the authority to review mooring specifications. The current code reads:

17.25.020 Anchorage, Berthing and Mooring Regulations.

J. Specifications. Specifications for the size of chains required on moorings, **weights** of moorings, and other mooring equipment shall be established by the Harbor Commission.

17.60.040 Mooring Permits.

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.

Recommendation: Reconcile this discrepancy with direction that one or the other section be changed, giving authority either to the Harbor Commission or the Harbormaster in both sections.

SUGGESTED REVISION 002

It is felt the process for suspending MAPS is too onerous to make suspension a viable tool to encourage compliance. Administrative citations are effective but also rather harsh, especially for some issues that can be addressed with a brief suspension. Please consider replacing B-2 with something that says a MAP may be suspended upon the determination of the City (not the Harbormaster) that the permittee has violated the terms and conditions of the MAP at least two times within any twelve (12) month period. Please consider revising Subsection B-4 to say that after any suspension, the permittee may apply for reinstatement of the MAP upon demonstrating to the satisfaction of the Harbormaster that all operations of the business are in compliance with the terms and conditions of the MAP or something close to that. The current code reads:

17.70.015 Suspension of Marine Activities Permit.

B. Procedure for Suspension. Permits shall be suspended in the manner provided herein.

1. The Harbormaster shall investigate whenever he or she has reason to believe that a marine activities permit holder has submitted an application that contains false information or committed a violation of a permit condition, this Code, or State or Federal law related to a marine activities permit. Such investigation may include, but is not limited to, on-site or vessel inspections. Should the investigation reveal substantial evidence to support a finding that warrants a suspension of the marine activities permit, the Harbormaster shall issue written notice of intention to suspend the permit. The written notice shall be served on the owner in accordance with Section 1.05.030, directing the permittee to appear at the date, time and place for a hearing on the suspension of the marine activities permit. The notice shall specify the facts which, in the opinion of the Harbormaster, constitute substantial evidence to establish grounds for imposition of the suspension, and specify the proposed time the marine activities shall be suspended. At least fourteen (14) days' notice of such hearing shall be given in accordance with Section 1.05.030 to the permittee shown on such permit, setting out the date, time and place of hearing.

2. The hearing shall be conducted according to the rules normally applicable to administrative hearings. At the hearing, a Hearing Officer will preside over the hearing, take evidence and then submit proposed findings and recommendations to the City Manager. The City Manager shall suspend the marine activities permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the suspension is consistent with the provisions of this section. If the City Manager determines there are grounds for suspension of a marine activities permit, he/she shall provide written notice of the suspension to the permittee shown on such permit, stating the grounds for the action, the length of suspension, and the effective date of the decision. The notice of decision shall be served in accordance with Section 1.05.030 within thirty (30) days of the City Manager receiving recommendations from the hearing officer. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

3. If a marine activities permit is suspended, it shall be the marine activities permit holder's responsibility to suspend all activities related to the commercial activities during the term of the suspension.

4. After any suspension, the owner may apply for reinstatement of the marine activities permit, as provided for in Section 17.10.030, provided the owner has paid the City all amounts owed the City in accordance with this chapter and this Code. (Ord. 2023-22 § 770, 2023; Ord. 2021-3 § 4, 2021)

Recommended revisions to consider are highlighted:

17.70.015 Suspension of Marine Activities Permit.

B. Procedure for Suspension. Permits shall be suspended in the manner provided herein.

1. The Harbormaster **or designee** shall investigate whenever he or she has reason to believe that a marine activities permit holder has submitted an application that

contains false information or committed a violation of a permit condition, this Code, or State or Federal law related to a marine activities permit. Such investigation may include, but is not limited to, on-site or vessel inspections. Should the investigation reveal substantial evidence to support a finding that warrants a suspension of the marine activities permit, the Harbormaster shall issue **a** written notice of intention to suspend **ing** the permit. The written notice shall be served on the owner in accordance with Section 1.05.030. ~~directing the permittee to appear at the date, time and place for a hearing on the suspension of the marine activities permit.~~ The notice shall specify the facts which, in the opinion of the Harbormaster, constitute substantial evidence to establish grounds for imposition of the suspension and specify the proposed time the marine activities shall be suspended.

2. **For suspensions lasting longer than three (3) days, the permittee may request an appeal hearing within seven (7) days of receiving written notice of the suspension. If appealed, the Harbormaster shall notify the permittee of the date, time and place of the hearing.** At least fourteen (14) days' notice of such hearing shall be given in accordance with Section 1.05.030 to the permittee shown on such permit, setting out the date, time and place of hearing.

3. The hearing shall be conducted according to the rules normally applicable to administrative hearings. At the hearing, a Hearing Officer will preside over the hearing, take evidence and then submit proposed findings and recommendations to the City Manager. The City Manager shall suspend the marine activities permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the suspension is consistent with the provisions of this section. If the City Manager determines there are grounds for suspension of a marine activities permit, he/she shall provide written notice of the suspension to the permittee shown on such permit, stating the grounds for the action, the length of suspension, and the effective date of the decision. The notice of decision shall be served in accordance with Section 1.05.030 within thirty (30) days of the City Manager receiving recommendations from the hearing officer. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

3. If a marine activities permit is suspended, it shall be the marine activities permit holder's responsibility to suspend all activities related to the commercial activities during the term of the suspension.

4. After any suspension, the owner may apply for reinstatement of the marine activities permit, as provided for in Section 17.10.030, provided the owner has paid the City all amounts owed the City in accordance with this chapter and this Code. (Ord. 2023-22 § 770, 2023; Ord. 2021-3 § 4, 2021)

SUGGESTED REVISION 003

Current Code:

11.20.050 Cleaning of Fish or Mussel.

No person shall place, cut or clean any fish, mussel, bait or other marine animal upon any bench or seat placed upon any ocean pier or upon the floor or railings of such piers. (Ord. 95-1 (part), 1995: Ord. 93-28 § 2 (part), 1993)

Recommended revisions to consider are highlighted:

11.20.050 Cleaning of Fish or Mussel.

No person shall place, cut or clean any fish, mussel, bait or other marine animal upon any bench or seat placed upon any ocean pier **or public dock** or upon the floor or railings of such piers **or docks**.

 or harbor public dock

SUGGESTED REVISION 004

Current code:

17.10.020 Permit for Commercial Activities in Newport Harbor Required.

A. No person shall engage in any commercial activity including, but not limited to, scheduling, arranging, operating or renting any bareboat or certified charter, vessel or equipment, on the waters of Newport Harbor without first obtaining a valid marine activities permit pursuant to this chapter.

Recommended revisions to consider are highlighted:

17.10.020 Permit for Commercial Activities in Newport Harbor Required.

A. No person shall engage in any commercial activity including, but not limited to, **advertising**, scheduling, arranging, **providing**, operating or renting any bareboat or certified charter, vessel or equipment, on the waters of Newport Harbor without first obtaining a valid marine activities permit pursuant to this chapter.

<<This advertising language was pulled from and is, therefore, consistent with 5.95.020>>

SUGGESTED REVISION 005

Current code:

17.25.020 Anchorage, Berthing and Mooring Regulations.

H. Mooring, Anchoring and Vessel Condition Requirements.

3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

L. Rental Not Permitted. Except as authorized in Section [17.60.040\(B\)\(1\)\(a\)](#), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.

Recommended revisions to consider are highlighted:

17.25.020 Anchorage, Berthing and Mooring Regulations.

H. Mooring, Anchoring and Vessel Condition Requirements.

3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel **in Newport Harbor** shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased, **loaned** or rented by the permittee to another person. except with the written permission of the Harbormaster.

SUGGESTED REVISION 006

Current code:

10.06.010 Human Waste.

No person shall urinate or defecate on private property in an area exposed to the public view, or on any public street, sidewalk, alley, park, beach or other public place except in a public or private restroom. (Ord. 2023-22 § 437, 2023; Ord. 1506 § 1, 1973)

Recommended revisions to consider are highlighted:

10.06.010 Human Waste.

No person shall urinate or defecate on private property in an area exposed to the public view, or on any public street, sidewalk, alley, park, beach, **Newport Harbor** or other public place except in a public restroom. (Ord. 1506 § 1, 1973)

SUGGESTED REVISION 007

Current code:

17.60.040 Mooring Permits.

B. Issuance of Permit—Conditions.

2. Permit Requirements.

a thru l

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

Recommended revisions to consider are highlighted:

17.60.040 Mooring Permits.

B. Issuance of Permit—Conditions.

2. Permit Requirements.

...

m. Agree not to advertise for rent, rent, assign, loan, or transfer the use of the mooring to any other person without prior written permission of the Harbormaster

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 **advertise for rent**, 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)(g) of this section, the Harbormaster shall have the authority to assign vacant moorings to sub-permittees pursuant to the following provisions:

SUGGESTED REVISION 008

Current code:

17.05.140 Public Hearings.

B. Notice of Public Hearing.

2. Method of Notice Distribution. Notice of a public hearing required by this title shall be given as specified below.

a. Mailing. Notice shall be mailed or delivered at least ten (10) calendar days before the scheduled hearing to all the following:

- i. Project Site Owners, Applicant and Appellant. The owners of the property being considered in the application, or the owners' agent, the applicant or the applicant's agent, and the appellant, if any;
- ii. Nearby Property Owners. All owners of real property located within a three hundred (300) foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the location of the subject matter of the application, as shown on the last equalized assessment roll. It shall be the responsibility of the applicant to obtain and provide to the review authority a list of the names and addresses of all owners who are to be provided notice under this subsection; and
- iii. Persons Requesting Notice. A person who has made a written request for notice with the City Clerk.

Recommended revisions to consider are highlighted:

17.05.140 Public Hearings.

B. Notice of Public Hearing.

2. Method of Notice Distribution. Notice of a public hearing required by this title shall be given as specified below.

a. Mailing. Notice shall be mailed or delivered at least ten (10) calendar days before the scheduled hearing to all the following:

- i. Project Site Owners, Applicant and Appellant. The owners of the property being considered in the application, or the owners' agent, the applicant or the applicant's agent, and the appellant, if any;
- ii. Nearby Property Owners. All owners of real property located within a three hundred (300) foot radius, **excluding intervening rights-of-way and waterways**, of the exterior boundaries of the location of the subject matter

of the application, as shown on the last equalized assessment roll. It shall be the responsibility of the applicant to obtain and provide to the review authority a list of the names and addresses of all owners who are to be provided notice under this subsection; and

iii. Persons Requesting Notice. A person who has made a written request for notice with the City Clerk.

SUGGESTED REVISION 009

It has been pointed out that a section of the code related to discharge into the harbor could be interpreted as pertaining only to discharge from a marine sanitation device. It is thought that the section should be clear that any and all discharge into the harbor is prohibited. The current code reads:

17.45.030 Waste and Refuse.

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 marine sanitation device on a vessel into the waters of Newport Harbor or the Pacific Ocean. In accordance with California Harbors and Navigation Code Section [782](#), any vessel in the waters of Newport Harbor or on the waters of the Pacific Ocean within the jurisdiction of the City, with a marine sanitation device, is subject, at any time, to boarding by the Harbormaster 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 all available remedies, including immediate removal from Newport Harbor.

Recommended revisions to consider are highlighted:

17.45.030 Waste and Refuse.

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 marine sanitation device on a vessel **or by any other means** into the waters of Newport Harbor or the Pacific Ocean. In accordance with California Harbors and Navigation Code Section [782](#), any vessel in the waters of Newport Harbor or on the waters of the Pacific Ocean within the jurisdiction of the City, with a marine sanitation device, is subject, at any time, to boarding by the Harbormaster 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 all available remedies, including immediate removal from Newport Harbor.

SUGGESTED REVISION 010

It is suspected that there are many instances of mooring permittees offering their moorings for rent to non-permittees. The code currently requires that the mooring permittee be on the title of any vessel assigned to a mooring. This requirement can be met through a change of title on the vessel or a change in a partnership or LLC agreement. There is no requirement that other names on title of the vessel also be on the title of the mooring. There have been occurrences of an owner of a vessel assigned to a mooring but not listed as a permittee violating the terms of the permit or the City of Newport Beach Municipal Code. Because the offending vessel owner is not a permittee, the remedies available for encouraging better behavior are limited. Mooring revocation and fines levied against the permittee may not be options in these circumstances. It is thought that if the names on title of the vessel were consistent with the names on the mooring permit, enforcing compliance with terms of the permit would be easier and the illegal subletting of a permit to a non-permittee would be reduced if not eliminated.

Relevant Existing Code Sections, emphasis added to most relevant sections:

17.01.030 (A) Definition of Terms.

6. Assigned Vessel. The term “assigned vessel” shall mean a vessel lawfully owned and registered or documented to a permittee to occupy a designated mooring or berthing location in Newport Harbor.

17.25.020 Anchorage, Berthing and Mooring Regulations.

L. Rental Not Permitted. Except as authorized in Section 17.60.040(B)(1)(a), no mooring may be leased or rented by the permittee to another person except with the written permission of the Harbormaster.

17.60.040 (B) Mooring Permits – Issuance of Conditions - Conditions.

2. Permit Requirements. A mooring permit may be issued to a maximum of two persons (“mooring permittee(s)”) who shall be individually and collectively responsible for all activities related to the mooring permit. The mooring permit shall specify the assigned mooring location, the mooring length, and assigned vessel information. Mooring permittee(s) are subject to and shall fully comply with the following conditions:

a. Identify on the permit the full legal name(s), current address(es), current telephone number(s) and current email 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. 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;

d. 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;

e. 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;

f. Provide proof of insurance for the assigned vessel naming the City as an additional insured to the satisfaction of the Risk Manager;

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

h. 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;

i. 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;

j. Agree to move the vessel from the mooring to another location when deemed necessary by the Public Works Director and/or Harbormaster because the vessel has drifted from its assigned mooring location or to address safety or navigational concerns, and also to authorize the City or its designee to move the vessel upon the mooring permittee's failure to do so, at the permittee's expense;

k. Agree to allow the Harbormaster, or his designee, to board the permittee's vessel at any time to inspect the condition and operability of the marine sanitation device(s) and/or insert dye tablets to determine whether said devices are discharging overboard in accordance with applicable laws; and

l. Agree that if the permittee's maximum mooring length is shorter than the established length of its mooring row by five feet or more then the permittee is subject to relocation within the same mooring field for the purpose of accommodating mooring extension requests. The H and J fields shall be considered as one field for the purpose of relocations. The costs of relocation, including the moving of mooring equipment, shall be borne by the mooring permittee who requested the mooring length extension.

Recommended revisions to consider are highlighted:

17.60.040 (B) Mooring Permits – Issuance of Conditions - Conditions.

g. Provide registration or other proof of controlling possessory right in the assigned vessel that matches the names of the permittee or permittees to the satisfaction of the Harbormaster;

SUGGESTED REVISION 011

The City of Newport Beach is committed to maintaining the health, safety, and environmental integrity of Newport Harbor. As stewards of this vital marine resource, it is essential that we continue to adapt and strengthen our policies to support responsible boating practices and safeguard water quality.

This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that any vessel on which a person stays aboard overnight be equipped with either a legitimate portable marine sanitation device (MSD) — compliant with U.S. Coast Guard and California State Parks Division of Boating and Waterways standards — or a permanently installed and operable marine sanitation system. The use of non-compliant, improvised waste containment methods, such as buckets, will not be considered acceptable.

This amendment is necessary to reduce the risk of illegal or improper waste discharge into the harbor, enhance public health protections, and align with best practices in harbor management. Ensuring that all overnighting vessels are equipped with appropriate sanitation systems reinforces the City's long-standing commitment to a clean, safe, and sustainable harbor environment for all users.

Relevant Existing Code Sections, emphasis added to most relevant section:

17.25.020 Anchorage, Berthing and Mooring Regulations.

H. Mooring, Anchoring and Vessel Condition Requirements.

3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay

Recommended revisions to consider are highlighted:

m. For vessels equipped with a portable or permanently installed marine sanitation system, allowing said device not to be connected directly to an internal holding tank at all times while in Newport Bay

n. For any vessel on which a person may stay aboard overnight on a mooring permit, mooring sub-permit, mooring license, or in one of the public anchorages, the absence of an operable portable marine sanitation device or a permanently installed marine sanitation system

o. The use of improvised waste containment methods.

SUGGESTED REVISION 012

The City of Newport Beach is committed to maintaining the health, safety, and environmental integrity of Newport Harbor. As stewards of this vital marine resource, it is essential that we continue to adapt and strengthen our policies to support responsible boating practices and safeguard water quality.

This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that any vessel making use of a public dock or City facility leave any outboard motor on the vessel in such a position as it will not do damage to other vessels using the public dock or City facility for the following key reasons:

Protection of Other Vessels

Raised or tilted-outboard motors often leave sharp metal propellers and lower units exposed over or alongside the dock. These can easily come into contact with hulls, fenders, or even people boarding or departing nearby boats. Requiring motors to be fully down or properly stowed minimizes this risk of scratches, gouges, or more severe hull damage.

Public Safety

Exposed propellers pose a significant hazard to pedestrians, children, and boaters walking or boarding at public docks. A protruding or jagged lower unit can cause injury. Keeping motors in a neutral, downward position or otherwise safely positioned enhances the safety of all harbor users.

Dock Infrastructure Protection

Outboard motors left up or at odd angles can swing in the wind or tide, causing repeated impact with the dock structure itself, particularly during wake events. This may result in damage to the dock pilings, decking, fascia, or cleats, leading to increased maintenance costs.

Clarity and Enforcement

An ordinance provides clear guidance for boaters and Harbor Safety Officers alike. Without a specific rule, enforcement is subjective and inconsistent. Codifying a simple standard, such as "motors must be in the down position while at a public dock," makes expectations clear and compliance straightforward.

Consistency with Best Practices

Many marinas and harbors already encourage or require such positioning as a best practice. By adopting this regulation, Newport Beach aligns with broader harbor management standards focused on minimizing preventable damage and improving shared access.

Encouraging Responsible Boating Behavior

Such an amendment promotes awareness and accountability among boaters. It reminds users that public docks are shared spaces, and responsible docking practices are essential for maintaining safe and equitable access for all.

In summary, this amendment will enhance vessel and pedestrian safety, reduce liability and repair costs, and foster a more courteous and orderly boating environment on Newport Harbor.

Relevant Existing Code Sections:

17.25.010 Docking Regulations.

C. Time Limits and Rules.

1. Public piers and other Newport Harbor facilities may be maintained by the City for the purpose of loading and unloading passengers, supplies, and boating gear and for similar purposes. It is the policy of the City to maintain such facilities in a manner that will permit the greatest public use and avoid continuous occupancy, congestion or blocking thereof. Where necessary to achieve public use and to avoid extended occupancy, congestion or blocking thereof, the Harbormaster is authorized and directed to post the following dock markings or signs limiting the time during which a vessel may be tied up or secured or supplies or gear may be placed at or on any such pier or facility or limiting vessel length. The dock markings shall have the following meanings:

- a. Blue markings shall mean vessels may be tied up or secured for twenty (20) minutes maximum.
- b. Green markings shall mean vessels may be tied up or secured for three hours maximum.
- c. White markings shall mean vessels may be tied up or secured for twelve (12) hours maximum.
- d. Black markings shall mean vessels may be tied up or secured for twenty-four (24) hours maximum.
- e. Yellow markings shall mean vessels may be tied up or secured for seventy-two (72) hours maximum.
- f. Red markings shall mean vessels shall not be tied up or secured for any amount of time.
- g. Orange markings shall mean the maximum length vessel permitted to be tied up or secured is nine feet.
- h. No vessel greater than thirty (30) feet long may be tied or secured at Central Public Pier.

2. In addition to a Rhine Wharf permit issued in accordance with subsection (A)(2) of this section, the Harbormaster shall have the discretion to issue a Rhine Wharf permit, if an application is filed in accordance with Section 17.60.015, and the Harbormaster makes the findings set forth in Section 17.05.140(D). Unless a Rhine Wharf permit is issued the Rhine Wharf shall not be used by vessels for any purpose. A Rhine Wharf permit shall be subject to the following standard conditions as well as any additional conditions imposed by the Harbormaster:

a. Vessels may be tied or secured to the Rhine Wharf for four hours maximum unless the Harbormaster determines special circumstances dictate an extension and the Harbormaster authorizes an extension;

b. The Harbormaster shall have the authority to limit the size of vessels using the Rhine Wharf; and

c. Vessels using the Rhine Wharf shall be in the actual process of loading, unloading, engaged in temporary repairs or taking refuge from inclement weather, when no other mooring or berthing is available.

3. When dock markings and signs are posted giving notice of the time limits and/or size restrictions in subsections (C)(1)(a) through (h) of this section, no person shall tie up or secure a vessel at any such facility for a period of time in excess of that period, exceed the maximum permitted vessel length, or permit any supplies or gear to remain on such facility for a period in excess of that permitted by the dock markings or posted signs. Vessels tied up or secured in marked areas designated with time restrictions provided in subsections (C)(1)(c) through (e) of this section shall not continue to use that same dock area beyond those established periods by relocating the vessel to another section of that dock, or securing the line associated with that vessel to tie to another location on that dock. Any vessel that has occupied a marked area must be removed from the same public pier, dock or facility, after the expiration of the time allowed, and may not reoccupy the dock for a subsequent tie-up period sooner than twenty-four (24) hours following expiration of the time allowed.

4. The Rhine Wharf shall be closed between the hours of midnight and 6:00 a.m. daily.

Proposed Revision:

Add new section 5 to read, "No person shall secure or permit to be tied to any public pier or other public facility any vessel whose outboard motor is in other than the down position or in such a position as to expose the propeller in a manner which may cause damage to other vessels."

Alternative revision:

Add the new language as section 4 and renumber the existing section 4 to section 5.

A Balboa Peninsula resident has expressed concerns about allowing sub-permittees to live aboard and perpetually renew their sub-permits. It is felt that this creates a situation in which the 7% limit on liveaboards on offshore moorings can be exceeded.

Relevant Existing Code Sections, emphasis added to most relevant section:

Section 17.40.030 Permits Required.

No person shall live aboard any vessel in Newport Harbor 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 a valid rental agreement from a commercial marina. No permit shall be issued to any live-aboard which is not intended to serve as the principal residence of the permittee. For purposes of this section, “principal residence” shall mean: (A) with respect to a mooring permittee, to live aboard for not less than two hundred forty-three (243) days in any calendar year; or (B) with respect to the tenant of a commercial marina with a valid rental agreement, to live aboard for a period not less than one hundred eighty (180) days in any three hundred sixty-five (365) day period. **Notwithstanding the foregoing, a sub-permittee of an off-shore mooring under Section 17.60.040 who is in good standing may live aboard, subject to and upon compliance with the requirements set forth in Section 17.40.070(A).** The ability of a sub-permittee to live aboard may be revoked at the discretion of the Harbormaster. The decision of the Harbormaster shall be final and nonappealable. (Ord. 2022-9 § 5, 2022; Ord. 2020-27 § 6, 2020; Ord. 2020-5 § 1 (Exh. 1) (part), 2020; Ord. 2018-17 § 32, 2018; Ord. 2008-2 § 1 (part), 2008)

Recommended revisions to consider are highlighted:

Section 17.40.030 Permits Required.

No person shall live aboard any vessel in Newport Harbor 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 a valid rental agreement from a commercial marina. No permit shall be issued to any live-aboard which is not intended to serve as the principal residence of the permittee. For purposes of this section, “principal residence” shall mean: (A) with respect to a mooring permittee, to live aboard for not less than two hundred forty-three (243) days in any calendar year; or (B) with respect to the tenant of a commercial marina with a valid rental agreement, to live aboard for a period not less than one hundred eighty (180) days in any three hundred sixty-five (365) day period. Notwithstanding the foregoing, a sub-permittee of an off-shore mooring under Section 17.60.040 who is in good standing may live aboard **for up to thirty (30) days in a calendar year**, subject to and upon compliance with the requirements set forth in Section 17.40.070(A). The ability of a sub-permittee to live aboard may be revoked at the discretion of the Harbormaster. The decision of the Harbormaster shall be final and nonappealable. (Ord. 2022-9 § 5, 2022; Ord. 2020-27 § 6, 2020; Ord. 2020-5 § 1 (Exh. 1) (part), 2020; Ord. 2018-17 § 32, 2018; Ord. 2008-2 § 1 (part), 2008)