## NEWPORT BEACH HARBOR COMMISSION PUBLIC MEETING Review of Proposed Changes to Title 17.10, Marine Activities Permit, of the Harbor Code Friends Meeting Room, 1000 Avocado Ave., Newport Beach, CA 92660 Monday, October 21, 2019 6:00 PM

Commissioner Kenney related the purpose of the meeting, the current provisions of Title 17.10, and the subcommittee's proposed amendments for exemptions, categories of Marine Activities Permit (MAP), and conditions.

Assistant City Manager Carol Jacobs reviewed the remaining proposed amendments to Title 17.10.

PUBLIC COMMENT	RESPONSE	SUBCOMMITTEE RECOMMENDATION
Section 17.10.025		
How much of an operation needs to be operated outside the Harbor to qualify for that?	100 percent.	Recommend all businesses have a MAP
If a tour company does a tour of the coast, that's not allowed?	It would be allowed as long as all you are doing is boarding, traversing the Harbor, and doing whatever activities you do outside the jetties.	Recommend all businesses have a MAP
There's no time limit for how long I need to stay outside the jetties?	None whatsoever. You can stay out for a month or five minutes. They key is you can't just cruise around the Harbor. You have to use the Harbor solely for ingress and egress.	Recommend all businesses have a MAP
In one of the previous meetings, we talked about the burial at sea. You're basically doing the essence of that. They're traversing the Harbor. They're going out to do their business, and then they're coming back. Is there any way we can add that as one of the exclusions on this? Those of us that are doing it are doing it at a reduced rate as compared to our regular charters. We look at it as providing a service to the community. If we could get some relief on that, we'd appreciate it.	We can certainly consider it. If you're solely operating as a service that does burials at sea, and all you're doing is traversing the Harbor, ingress and egress, to perform that function, in my opinion—just one man's opinion—that would certainly be an exclusion. If, on the other hand, you bring people back in and you're serving any kind of food or refreshments and you're cruising around the Harbor, then you're operating within the Harbor.	Proposing to require all users of the harbor to have a MAP
I understand if you do your business outside the Harbor, you	That is a darn good point. I believe that's covered under the	Proposal is to have everyone have a MAP

don't need a Marine Activities Permit (MAP). Under the MAP, we deal with the parking situation. I don't understand how that same business' clients are making the noise and leaving the trash while they're in the parking, taking up the parking spaces, and that's not an issue. They get a pass for that?	business license, possibly the uplands permit. If you have a commercial business and you're on land, you would have to meet all of the parking requirements per zoning within your business when you get that zoning approval for that business on land. If you had a boat, but you have approval for 15 or 20 passengers, you would already have to prove that you have enough parking spaces for that activity. You just wouldn't need that extra layer of a MAP because you already have the parking on land.	
Most of the people that do this do other things. We'd have to fulfill all the requirements. From my perspective, we're providing a service to the community. We do this at a reduced rate. We ought to have some kind of—I don't know about a (inaudible) review of that. We're required to have all our regular parking and everything else.		Proposal to require all businesses to have a MAP
Here's an example. (inaudible) ship comes in, and he moors somewhere at a guest dock. He takes out 70 people, and they go out and do a sea cruise. Does he need to provide parking or not? That's one of the problems that we're seeing.	I would say technically, under the current Code, no. Current Code in terms of MAP. If they pick up passengers in the Harbor, especially if it was for profit, if there was a charge, if there were a commercial activity, then they would need a business license, an uplands property in order to load and unload passengers.	Consider requiring everyone to have a MAP and work with each business to determine appropriate parking
That property might not have a parking facility. That has been going on quite a bit in the past.	Can you give an example of where they're loading from?	Work with each business to determine proper parking
(inaudible)	They're parking in the public lot across the street probably. Frequently, I think, they're at the sea base. Something we need to consider.	Work with each business to determine proper parking

Types of MAPs		
If you broke it down into the five categories and if you dealt within multiple categories, would that require you to get two separate permits or would there be one permit with two categories? For example, we do the charter serving meals and the rentals.	You'd need two separate permits in your particular case because it's two separate types of business. If you were doing charters with meals and burials at sea, today you would need a MAP for burials at sea, but you would probably fall under the larger encompassing category of charter serving meals. That would cover both.	Subcommittee will work on this and bring back the types of permits recommended at a future meeting.
Section 17.10.070B		
Our harbor cruise, for example, is a 36-foot boat that cruises not always in the main channel but also goes in side channels. We've been doing that for seven years. How does work with that over 25 feet and have to be in the main channel?	Technically, you'd be in violation today. Tell me the vessel.	After further discussion, this would appear to be allowed based on the location of the residence.
That would be the <i>Cool Breeze</i> or the <i>Queen</i> , single-deck boats. I thought it was always the double-deck boat that wasn't allowed outside for privacy reasons.	No reference to a double-deck boat in the current Section 17.10.	After further discussion, this would appear to be allowed based on the location of the residence.
That's something I'd be very interested in if there could be an amendment made to that. I don't think we're bothering any people.	The language that's on this bullet point in this slide says "main navigational channels." That doesn't necessarily specify the federal channel. That's just any navigable channel anywhere in the Harbor. I don't think there is a prohibition against—you shouldn't go into the Grand Canal. Still maintain 100 feet from any residence. That doesn't seem burdensome. That eliminates the side channels, like along Balboa Island and the Peninsula. That would be on the outside of the mooring fields. A navigational channel would certainly be those areas between the mooring field and Balboa Island, between the mooring field and Peninsula. Then the	After further discussion, this would appear to be allowed based on the location of the residence.

	<ul> <li>question becomes do you technically violate the 100-foot rule.</li> <li>If there's a 25-foot setback from the bulkhead to the residence, which would be on the Peninsula but not necessarily on the Island. Let's take the Island. You've got 20 feet from the seawall on and around Balboa Island to the residence. You get 20 feet for the boardwalk plus the setback on the property line. You've got a dock structure; it's going to be at least 40 feet. Now we're at 80. I think you can safely operate 20 feet off the docking structure. It is permissible to go down the channel between the moorings and Balboa Island. I don't think that's an issue.</li> <li>If we look at other areas of the Harbor, certainly where there are docks and piers, those are going to keep you far enough away from the residences so you wouldn't conflict with the 100-foot rule.</li> </ul>	
Can you do the parade route?	Let's leave the parade route out of that for right now. We're going to have to deal with that separately.	Agreed
I'm with Admiral Yacht Charters. I do a lot of sales. The 10:00 noise ordinance—when you say amplified sound, are we saying DJ? At 10:00, 10:30, can we turn it down to easy listening music through the stereo system of the boat?	Technically, you're not supposed to have any music at all that can be heard outside the boat after 10:00. Before 10:00, the sound can't be heard beyond 100 feet of the boat.	No proposed change.
How would that work for a private boat?	That falls under the noise ordinance generally in the City. It's a little more challenging to enforce it on the water, but it is the same ordinance.	No change proposed
The whole problem is when people charter a duffy boat, there is no instruction given.	Creating multiple versions of the MAP may help us address that question. If there is a version more tailored to self-driving rentals, we can start to condition those permits.	Kurt working on developing MAP types and requirements

The only comment I would have is adequate parking. As we go through the MAP process each year, parking is reviewed. I went through an analysis last year of looking at our parking requirements compared to our parking needs. I found them extremely different. Lyft and Uber are totally changing the paradigm because people do not want to come down, go out on a boat and party, and then get back into a car. We're finding a significant amount of our clients coming down with Uber and Lyft, especially the locals.	You all are better off giving the staff some wiggle room here. We're reviewing each of these on a case-by-case basis. The parking requirements that used to be imposed on us are a lot different than what are imposed on us today. It's a very fluid situation, and it's going to change over time. I'd rather have the flexibility of letting staff look at each individual situation.	Parking to be addressed individually.
Since our last meeting, we have added on our website when people go to book online "how are you coming to our location." Over 50 percent is Lyft or Uber or ridesharing.		Excellent information to have
We are on a commercial dock, but the commercial dock doesn't come with any parking. It's weird to me how the City can deem this a commercial dock but not have it have parking.		Parking will be evaluated by business
Years back, a commercial dock was when you have a pumpout station, about 30 years ago.	This gentleman is correct. The charter fleet is required to have pumpout facilities at the docks. My understanding is that a commercial dock is a dock that is in front of a commercially zoned property. If the upland property is commercially zoned, that dock can be used as a commercial dock. Likewise, if it's in front of a residence, it's a private dock and it can't be used for commercial purposes.	Parking will be evaluated by business.
	that arrangement, and they're old.	
I don't understand how there can be a commercial dock in front of the Teller Building, which is commercial and residential, and yet we can't use the dock	That's an item we should be able to address either at a staff- level—I need to do some research to figure out the history of all that. We can look into that. There's also the concern that	Start with everyone must have a MAP and then begin to resolve the issue with new businesses.

commercially. According to number one, there's no parking.	why is it a commercial dock if it's been there a 100 years. We've got those grandfather issues that are now creating different problems that we never anticipated. Parking is established by the Zoning Code, which is administered by the Planning Division. When you come in to get your MAP, you're going through Planning to look at your parking. If you have statistics that say "I put 50 people on a boat, but for eight months here is how all my people got there," that is great information to have. It will help us to make sure we're asking for the appropriate number of spaces as opposed to too many or not enough. Your help in advising us as to how your folks are getting to your locations would be really helpful information. How does the City look at the available street parking versus a private lot parking? In some instances like Balboa Island, it would be a little more impactful to the residents of Balboa Islands for a business on Balboa Islands for a business on Balboa Islands in be parking in those streets as opposed to something maybe on the Peninsula or the Mariner's Mile area. What kind of formula is going into that calculation? My understanding is that your parking is supposed to be all onsite. If it is not onsite, then you have to have a parking arrangement with another person or property, and you have to figure out how you would get there. If your offsite parking is in Costa Mesa, how are you getting	
	parking is supposed to be all onsite. If it is not onsite, then you have to have a parking arrangement with another person or property, and you have to figure out how you would get there. If your offsite parking is in Costa Mesa, how are you getting them here? That becomes very complicated for your business. Now you have to prove is the property owner giving away their parking spaces multiple times to	
	too many people. Planning has to verify how many parking spaces they've given away to various businesses at that location and then determine if the	

	offsite parking has given away too many parking spaces at that location. There's a lot of coordination and investigation that we have to do because most people cannot park all their customers onsite if they have a water business. The other thing it would be beneficial for staff to do is make sure we are providing you with all the information you need before you come to us. Section 17.10.120 has an exemption for all of those commercial activities holding valid permits issued prior to the effective date of the chapter, which in this case is March 24, 2006. There are some grandfathered situations in the Harbor. When Title 17 was updated, my guess is that the City Council said everybody who has a permit today that doesn't conform has the ability to conform so long as they don't change their business.	
It keeps everything in check too. Once you start getting down the road of "we can Uber in" or "we can bus in," what stops any company from bringing two, three extra boats in? That's the other side of it too.	Dock space is one of them.	Parking will be considered individually.
Is this a change, the terminology saying adequate? My understanding was that it was one space for every three occupants.	That's the planning standard. Section 17.10 speaks just to adequacy.	Parking will be considered individually
It's my understanding that there's a number of restaurants on the water that have docks for people to park their boat and eat at the restaurant, but they're not commercial docks for some reason. For some reason, they can't have a commercial boat come in and pick up 12 passengers. They can't sell a harbor cruise dinner and have passengers picked up. In this case, the situation was a duffy. They hired a licensed captain to	I would respectfully disagree. I'm not the lawyer here, but I would disagree. I believe the definition is that the uplands property is zoned commercial. Let's take, for instance, The Winery. I believe that The Winery's dock could be used as a commercial dock for a charter-type operation so long as The Winery had adequate parking both for the restaurant and for the charter operation.	No change proposed

drive the duffy. People come up to the restaurant. The dinner is put on in the restaurant. People get on the boat, and they take off. They were told by the City, "You can't do that. You don't have a commercial dock."		
I would assume that every restaurant would enjoy picking up an extra 6-12 place settings every night.	That assumes they have the availability of the parking. I can't think of very many restaurants around the Harbor that have docks.	Parking for on-water businesses will determined separately.
There's half a dozen. We had suggested we would do something with them. They go, "We can't do that. The City won't let us. We don't have a commercial dock." The Cannery does not have a commercial dock.	I disagree. I do believe that you would have the right to do it, again so long as you have the adequate parking. That's the key. Planning would look at the land-based operation. I don't know what the requirements are, but typically it's somewhere between 8 and 10 parking spaces per 1,000 square feet of the building. They would look at the water-based operation and require maybe one parking space for three customers. I'm going to run two boats at eight people each. I'm going to add those up and, if they have adequate parking, I think you'd be okay to do that. Don't take my advice though. I'm just giving you one man's opinion.	Parking for on-water businesses will be considered separately.
	I did get feedback from someone in the community asking for us to consider a change where the operators would need to display prominently the name or corporate name or name of the vessel. If a community member observes behavior that could be corrected, they know who to direct that feedback towards.	Operationally we will require a sticker, but not the rental company name.
	Only a documented vessel is required to have a name and a hailing port. If you have a CF number, which most duffies do, there's no requirement that you have a name on there. Certainly if the community requested it, the MAP could require a vessel name and maybe the company.	

	The each are that I are think of it.	
Some of them have the company name on there.	The only one that I can think of is the guys that have the palm tree and the	Operationally we will require a sticker, but not the rental company name.
	The larger vessels have the name of the boat on there. It's pretty obvious (inaudible). I think what we're looking at requiring is the smaller vessels, like the paddleboards, the duffies, the smaller vessels where you wouldn't know one from the other. It helps to have the name of the company on it. If we find a lost paddleboard or we (inaudible), we're able to contact them and say we saw this boat or paddleboard, and they would be able to (inaudible) to let you know what's happening even before (inaudible). It's not a standard condition (inaudible) requirement. Is that something that this group would be opposed to? To put your company name on your boats, vessels, paddleboards,	
It's super helpful actually.	kayaks.	
We have our name on everything. When Harbor Patrol calls me because they're having a problem with something, it's no longer like "I pulled this person over. Is it yours?" They're like, "It's yours."		City will require a sticker only
I think enforcement is critical to it. If you have operators who aren't doing this, inevitably the operators that do have their names on their stuff are going to bear the burden of unwarranted claims. It's easy when there's one company out there that has their name on things to say it was Dan even if it wasn't. So long as there's sufficient enforcement for this, it's a not a bad idea.	From an operational standpoint, especially the smaller vessels, it's a great idea to do that. It probably helps you because you're the ones that are doing the proper education. The likelihood is it's someone else that's getting in trouble. Once the Harbor Patrol or the Harbor Department knows the name is on your boards and they look at those boards and don't see you, they're not going to call you. The question is should that be a condition of a MAP. Would this group support that or are we getting into over-regulation, which we don't want to do?	We will continue our enforcement efforts

I don't see the negative of it, as an operator. It's good marketing. If you don't want your name on whatever craft you're renting, then what are you doing? It has made our lives easier.		Agreed.
We have pontoons and then we have a duffy (inaudible) duffies.	John, I believe you have a pontoon.	City will require stickers and not name on the boat.
We have little decals. We put them on all of them.	What about the duffy? Would it make sense to put your name on the side of the duffy?	
On the duffy probably not. On the palapa, yes. Obviously everything was sized to the craft.	Is it fairly legible from any kind of distance?	
	Maybe it's something we want to all consider and bring it back to you.	
	I have one suggestion. When we were talking about the five different types of MAP, we described them as charter vessels not serving meals and charter vessels serving meals. Can we change the word meals to food and/or beverage service? The interpretation of what a meal is may be wide and varied. Food and beverage service is fairly specific.	Yes, food and/or beverage service.
	That was my shot at being all encompassing.	
For New Year's and the noise ordinance, is that an exception?	It has come up. It has not been resolved. I believe in our last meeting we were going to suggest a special permit for New Year's operation? Is that what we said? We came up with some form.	Provide for a special event permit.
The whole point of New Year's is midnight, music. Not that you want to terrorize the Harbor, but you can't have no music.	We do have residents that live on the Bay that are older and don't like the noise. As one of our key staffers says, we all have to play in the same sandbox.	Provide for a special event permit.

Not only that, but it's a public harbor. It's not like Arrowhead, a private harbor.	True, but the City's job is to balance all interests.	Provide permit.	for	а	special	event
The same with the boat parade. Most of us try to get in by 10:00. Sometimes we pull in around 10:30. Again, that 10:00 cut music off, no exception other than maybe New Year's?	Today, no exception, correct. If you're operating after 10:00, you're not supposed to have any kind of amplified music, and you can't be heard beyond 100 feet of the boat. The fact that you can't be 100 feet from a residence and the fact that you can't emit sound over a 100 feet is not coincidental.	Provide permit.	for	а	special	event
	For the record, I'm in favor of an exemption for New Year's Eve. I thought we had put it in there, but apparently I was wrong. Perhaps, I was outvoted.					
	When we bring this back, we'll either address it through an exemption for New Year's Eve. Would the charter fleet be amenable to a midnight cutoff?					
	1:00 a.m.					
They're not at the dock at midnight. They're traveling, so they're coming in pretty much after New Year's, like midnight. You're saying cut the music at midnight?	Just a suggestion. I say 1:00 a.m. on January 1. Nothing has obviously been agreed upon. I thought we discussed allowing music after 10:00 with a special permit. The only reason I like that is if you go to the effort of getting a special permit, our people on the Harbor are going to know about it. As long as you still	Provide permit.	for			
You're saying special permit for noise?	For noise for New Year's Eve, correct. I think the intention was, if you're a charter operator and you're going to go out on New Year's Eve, just tell us you're going to go out. There's no fee associated with it. Just tell us that you're going out on New Year's Eve, and the Harbor Department will have a list of those that are operating and can continue to make noise until 1:00 a.m. If	Provide permit.	for	а	special	event

	<ul> <li>you're just a knucklehead out there with no permit, the Harbor Department's going to say, "We don't have you on our list. Shut up."</li> <li>But you still have to abide by the 100-foot rule. I think you still need a formal permit. That way the Harbor Patrol and the Harbor Department know, and we can say to the residents, "That vessel was approved to do this. Those guys who are making all noise and hanging out in front of your house were not."</li> </ul>	
Section 17.10.020F		
If a shop is renting paddleboards or kayaks, but they don't necessarily have a dock, that still applies to them, right?	Absolutely.	Agreed.
If you're on the boulevard and you're renting something, you're not necessarily on the water. You're just renting something that is for the water. I would hate for somebody to get confused about that.	That's a good point. The intent is if you're renting a vessel—a vessel under the Inland Rules includes a paddleboard and a kayak—for use on the water, that's when you would come under the MAP. If you were on land with a dock, you still wouldn't be on the water. We can say "for use on the water" to clarify it.	Everything rented that will go into the harbor will need a MAP
Would it be possible to issue a tag for boats that are approved to do charters? A visible tag that you could put next to your hull or someplace special so that the City knows this is a charter boat, a bareboat, not a bareboat. Rather than names, they have a number on the tag so you know whose the boat is.	There are two options. One, what this gentleman suggests. The other option would be a requirement that any rental vessel be inspected by the Coast Guard Auxiliary and get the	City will require stickers on all rental operations.
Which means they have an activity permit?		Yes
When the Coast Guard inspects your rental vessel, they give you a little sticker that has a number and says the vessel is certified safe.		That does not mean the vessel has a MAP. MAP's will be required for everyone.

We're talking generally about the boats that do bareboat charters. The tag would show this is a bareboat charter. For electric boats they wanted the name, rather than putting the name put the tag with a number. The City has the number with the name and it's supposed to do this and this. For the City to know who is who and for us also, to see if this guy is a charter boat, if it's legitimate or not. With a tag, we could a little bit better police ourselves if we see a boat out there and they don't have one.		
Actually, the DMV, any working vessel is supposed to be registered under livery. Our boats are, and it changes our CF number. It's CF1234LE. Everyone should know what LE is including the patrol. If you see an LE boat, then you know it's a working commercial boat.		City will require Stickers
You know it has been inspected by the City, by the Coast Guard, insured by whomever when they have this tag.		City will require Stickers
	Kurt, what kind of burden would it put on your department to inspect all these rental vessels? I like the idea of having the rental boats, the duffies and the sailboats and the powerboats that are being rented. I was taking the suggestion from less of an inspection philosophy and more from an identification philosophy. When folks are out there engaged in commerce, if we're moving in the direction of eliminating the six-pack exclusion, being able to identify folks that are doing business on the water and that have been given the City's okay to do so has a benefit. Providing a sticker gives our team an opportunity to engage people too. I tend to like the idea.	City will require Stickers

	If it's merely adding a sticker that	
	you place on your boat, it also allows our Code enforcement people to focus on those that don't have it.	
	It could all be incorporated in the MAP application, renewals.	
	I don't think we would put it into Title 17, but we could put into the MAP that you'll be given a sticker that's good for your one-year period and the sticker needs to be prominently displayed at some point on the vessel. We would pick a place on the vessel so it's no different than a CF number or your name and hailing point. I like that idea.	
That would include paddleboards too?	Just realize it's a stack of stickers for those of you who have a fleet of boats under your permit.	Yes it would be for all rentals.
	They're changed annually.	
A suggestion like that, basically	That type of identification system for small craft like paddleboards has a lot of benefit. They're very practical. That will help us retrieve lost property and get it back to its rightful owner who is a business operator in the community. We've got some businesses that overuse the period of time that their inventory is on public beaches. Being able to quickly identify that property, we can start off with an education process with that operator. That kind of identification helps us in some really practical ways.	City will require Stickers
you change the whole idea and take a whole step forward. Maybe every boat can have a QR code. Different colors of QR codes could mean different things. All the information is on		
the QR code when it's scanned.		
We have a rental operation based in Phoenix. We have a 3x5 sticker that is on every single peddle boat, electric boat,		City will require Stickers

standup paddleboards. They're issued once a year, and we do pay a fee. It's really simple. They do it for all public vessels too. Anybody who's on the lake has to pay that fee. It's not uncommon. For us that have large rental fleets, please issue extra stickers because we switch stuff out.		City will require Stickers and work with business owners to provide the appropriate number of stickers.
Section 17.10.090E		
How does that work? Most boats don't have graywater tanks.	We might have to modify this. The charter fleet that would have food and beverage service is required to capture graywater. Our intent is to make sure that the charter fleet that has food and beverage service captures and discharges their graywater properly.	No change to the language as proposed.
If you had bareboat people bringing their own food and stuff like that, you would be required to capture graywater?	No. There shouldn't really be any. You're going to have an MSD. That's blackwater. You're probably going to have a sink and head, and that's pretty much it. Maybe a sink in the galley. You can't get overly burdensome. In our private vessels, we don't have to capture graywater. We would expect they would be held to the same standard.	No change to the language as proposed
It would be for the big guys.	Anybody that has food and beverage service. If anybody objects to that, let us know.	No change to the language as proposed
Other		
Is there going to be different price rates for the different permits? Maybe a less amount for a smaller business than a larger business.	That's a great point. I don't know what the fee structure for the MAP currently is. That's probably established by Finance. It's established by Finance, and they typically look at every department every 3-5 years. If we were to bring on a new permit, we would try to establish different fees. It's based on time and materials. We would look at the fee structure as well.	This will be determined once the permits have been established.

	The City has the obligation and the right to recapture their costs. A lot of the fees for permits are based on an estimated T&M by the City. I would think with MAPs there's not going to be a whole lot of difference between one and the other. It's going to be pennies in the whole scope of things.	
What is it currently?	\$341 for a new application, \$297 for a renewal. Be prepared, there might be a sticker surcharge on the new ones.	Correct