



CHAPTER 4 **Harbor and Bay Element**



HARBOR AND

A Hospitable, Navigable

Introduction

Newport Bay, including the Upper Bay and Newport Harbor in the Lower Bay, is a vital component of Newport Beach's natural resources, community identity, and economy. Some aspects of the Harbor and Bay Element that address public access, water quality and the environment and administration are also covered in the Natural Resources, Recreation, Safety and Circulation Elements. These overlapping policies or goals are noted within each Element. In addition, some land use policies relating to the waterfront uses along Lower Bay and Newport Harbor are also discussed in the Land Use Element.

Over the decades, public and private initiatives have enhanced and improved the natural resources of the Lower Bay to create what is today a world class small craft harbor. The natural and manmade resources of the Bay were once home to an economy that saw commercial fishing, fish canning, and industrial shipbuilding coexist with recreational boaters, restaurants, and waterfront homes. Today, fish canning and shipbuilding industrial uses are gone, while a wide range of recreational boating activities such as sport fishing, kayaking, diving, wind surfing, sailboat racing, excursion and entertainment boat activities, as well as visitor serving commercial and recreational uses and waterfront residences, are the main land uses located along the harbor. These different users of coastal lands and the water can lead to competing interests and demands, which are magnified by rising land values and a changing economic climate. Several issues presently face the harbor and bay areas. These include the following:

- Economic pressures to replace marine uses and harbor support facilities and services with residential uses.

- Balancing access to and benefits of marine uses such as recreational boating activities and marine commercial uses with associated impacts such as noise, traffic, parking, and disturbances to sensitive environmental resources and habitats.
- Increasing demand to accommodate larger vessels in the harbor, leaving limited affordable berthing and dry storage options for smaller boats and vessels.
- Need to improve administration of Harbor Resources
- Difficulty in obtaining permits to perform routine maintenance dredging.
- Seasonal presence of large population of California Sea Lions, causing noise, pollution, property damage, and odors.

BAY ELEMENT

Pleasure-Boating Harbor

Goals and Policies

The goals and policies pertaining to harbor issues are intended to guide the content of regulations related to development of, and the activities conducted on, the water. Additional goals and policies recognize the important component of land use decisions related to waterfront property around Newport Harbor. The aim of the Harbor and Bay Element goals and policies are to preserve the diversity and charm of existing uses without unduly restricting the rights of the waterfront property owner. Goals and policies within the Harbor and Bay Element have been organized to address both water and land related issues, provision of public access, water quality and environmental issues, visual characteristics, and the administration of the Harbor and Bay.

Diversity of Land Uses

Goal

HB 1

Preservation of the diverse uses of the Harbor and the waterfront that contribute to the charm and character of Newport Bay, and that provide needed support for recreational boaters, visitors, and residents.



Cannery Village Boardwalk

Policies

HB 1.1 Preservation and Enhancement of Water-Dependent and Related Uses

Preserve and enhance the following uses that contribute to the diversity and charm of Newport Bay, and the balance among them:

- Water-dependent and water-related recreational activities such as boating, sailing, wind surfing, fishing, kayaking, rowing, paddle boarding, and swimming.
- Water dependent and water-related commercial activities such as passenger/sightseeing boats, passenger-fishing boats, boat rentals and sales, entertainment boats, boat/ship repair and maintenance, and harbor maintenance facilities.
- Water-enhanced commercial uses such as restaurants and retail stores.
- Water-related public recreation and education areas and facilities such as beaches, piers, view parks and nautical museums and related public areas providing access to, and views of, Newport Harbor.
- Coastal residential communities. (*Imp 2.1, 14.3, 14.6, 21.1, 24.1*)

HB 1.2 Waterfront Public Spaces

Encourage the creation of waterfront public spaces and beaches, with adjacent water access and docking facilities that serves as the identity and activity “centers” of Newport Harbor for special events of community/regional interest. (*Imp 20.1, 20.2, 20.3*)

Goal

HB 2

Retention of water-dependent and water-related uses and recreational activities as primary uses of properties fronting on the Harbor.

Policies**HB 2.1 Design of New Development**

Site and design new development to avoid impacts to existing and potential water-dependent and water-related uses. (*Imp 2.1, 7.1, 8.1*)

HB 2.2 Land Use Changes

Consider the impact on water-dependent and water-related land uses when reviewing proposals for land use changes, considering both the subject property and adjacent properties. (*Imp 2.1, 14.6, 24.1*)

HB 2.3 Marine Support Uses

Encourage the preservation and enhancement of existing marine support uses serving the needs of existing waterfront uses and the boating community. (*Imp 2.1, 14.3, 14.6, 21.1*)

HB 2.4 Harbor Related Private Uses

Accommodate private sector uses, such as vessel assistance, that provide emergency, environmental enhancement and other services that are not provided by the public sector and that are essential to the operation of a working harbor. (*Imp 21.3, 21.4*)

HB 2.5 Waterfront Facilities

Encourage development of waterfront facilities that accommodate displaced water-dependent uses. (*Imp 2.1, 14.3*)

HB 2.6 Public Access Facilities

Ensure that new or improved public access facilities are compatible with existing, permitted land uses and consistent with the availability of supporting infrastructure, such as parking and restrooms. (*Imp 2.1, 21.1*)



Basin Marine Shipyard

Goal

HB 3

Enhanced and updated waterfront commercial areas.

Policies

HB 3.1 Building Improvements and Programs

Preserve and/or enhance existing water-enhanced, water-related and water-dependent commercial uses and marine oriented commercial areas through building improvements and programs that preserve the design and character of the Harbor. (*Imp 2.1, 24.1*)

HB 3.2 Re-Use of Properties

Discourage re-use of properties that result in the reduction of water-dependent commercial uses. Allow the re-use of properties that assure water-dependent uses remain, especially in those areas with adequate infrastructure and parcels suitable for redevelopment as an integrated project. (*Imp 2.1, 14.3, 24.1*)

HB 3.3 Land Use Regulations

In establishing land use regulations, consider the operational characteristics of land uses that support the Harbor, and whether such uses can be relocated to inland locations and/or if technological advances will eliminate the need for such support uses in the foreseeable future. (*Imp 2.1, 14.3, 21.1*)

Diversity of Water Uses

Goal

HB 4

Preservation of existing commercial uses in the Harbor to maintain and enhance the charm and character of the Harbor and to provide support services for visitors, recreational boaters, and other water-dependent uses.

Policies

HB 4.1 Passenger Vessels

Support continued operation of passenger/sightseeing boats, passenger fishing boats (“day boats”), and long-term boat rentals and sales. (*Imp 2.1, 21.1*)

HB 4.2 Small Vessels

Support continued short-term rental of small boats while encouraging vendors to teach customers how to safely operate the watercraft. (*Imp 2.1, 21.1, 21.3*)



Recreational kayaks

HB 4.3 Entertainment and Tour Vessels

Support continued operation of entertainment and tour boats subject to reasonable regulations designed to ensure the operations don't have an adverse impact, such as unsafe navigation, impaired water quality, reduced visual quality, excessive noise, unsafe street traffic conditions, or parking shortages on the environment and land uses surrounding the harbor. (*Imp 14.3, 21.3*)

Goal

HB 5

A variety of vessel berthing and storage opportunities.

Policies

HB 5.1 Marinas and Dry Boat Storage Facilities

Protect and, where feasible through the use of new designs and technology, enhance and expand marinas and dry boat storage facilities. (*Imp 2.1, 21.1*)

HB 5.2 Berthing and Moorings

Provide a variety of berthing and mooring opportunities throughout Newport Harbor, reflecting state and regional demand for slip size and affordability. (*Imp 2.1, 21.1*)

HB 5.3 Anchorages

Provide anchorages in designated federal areas that minimize interference with safe navigation and where shore access and support facilities are available. (*Imp 2.1, 21.1*)

HB 5.4 Piers

Authorize, pursuant to permit, license, or lease, new and existing piers and docks bayward of waterfront residential properties, subject to appropriate conditions that ensure compatibility with residential uses. (*Imp 2.1, 21.1*)

HB 5.5 Temporary Rental of Moorings

Facilitate access to vacant moorings for temporary rental use. (*Imp 2.1, 21.1*)

HB 5.6 Mooring Transfers

Foster public access to moorings by enforcing and refining the derelict boat ordinance and regulating transfers by permit holders. (*Imp 2.1, 21.1*)

HB 5.7 Live Aboard Vessels

Allow “live-aboard” vessels, subject to a reasonable maximum number of renewable annual permits, and provide for regulation and vessel inspection. (*Imp 2.1, 21.1*)

Public Access

Goal

HB 6

Provision and maintenance of public access for recreational purposes to the City’s coastal resources (Goal R9).

Policies

HB 6.1 Provision of Public Coastal Access

Provide adequate public access to the shoreline, beach, coastal parks, trails, and bay, and acquire additional public access points to these areas and provide parking, where possible. (Policy R9.1) (*Imp 2.1, 5.1, 20.2*)

HB 6.2 Long Range Plan for Public Trails and Walkways

Develop and implement a long-range plan for public trails and walkways to access all appropriate commercial areas of the harbor, as determined to be physically and economically feasible, including:

- Extend the Lido Marina Village boardwalk across all of the waterfront commercial properties in Lido Village
- Provide a continuous waterfront walkway along the Rhine Channel connecting Cannery Village and McFadden Square waterfront commercial areas with Las Arenas Beach at 19th Street
- Provide a walkway connecting the Lido Village area with Mariners’ Mile
- Provide a continuous walkway along the Mariners’ Mile waterfront from the Coast Highway/Newport Boulevard Bridge to the Balboa Bay Club. (Policy CE 5.1.14) (*Imp 23.1, 23.2*)



Walkway and bikeway along Promontory Bay

HB 6.3 Provision of Visitor Facilities in Newport Harbor

Encourage the provision of guest slips, moorings, waste pump-out stations, and anchorages in Newport Harbor. Coordinate work with the Orange County Harbor, Beaches, and Parks Department to provide such facilities where appropriate and feasible. (Policy R8.3) (*Imp 14.3, 23.1*)

HB 6.4 Enhancement of Guest and Public Facilities

Protect and, where feasible, expand, and enhance:

- Waste pump-out stations
- Vessel launching facilities
- Low-cost public launching facilities
- Marinas and dry boat storage facilities
- Guest docks at public facilities, yacht clubs and at privately owned marinas, restaurants and other appropriate locations
- Facilities and services for visiting vessels
- Facilities necessary to support vessels berthed or moored in the harbor, such as boat haul out facilities
- Existing harbor support uses serving the needs of existing waterfront uses, recreational boaters, the boating community, and visiting vessels. (Policy R8.5) (*Imp 2.1, 23.1*)

HB 6.5 Water Transportation Services and Support Facilities

Enhanced and maintained public water transportation services and expanded public water transportation uses and land support facilities. (Goal CE 5.2) (*Imp 16.12*)

HB 6.6 Marine Terminals

Coordinate the location of marine terminals with other components of the transportation system to ensure convenient multi-modal access and adequate parking. (Policy CE 5.2.1) (*Imp 16.12*)

HB 6.7 Expanded Water Transportation Modes

Promote opportunities to expand water transportation modes, such as water based shuttle services and water taxis. (Policy CE 5.2.2). (*Imp 16.12*)

Water Quality and The Environment

Goal

HB 7

Protection and management of Upper Newport Bay commensurate with the standards applicable to our nation's most valuable natural resources. (Goal NR 16)

Policies

HB 7.1 Funding Support for Upper Newport Bay Ecosystem Restoration Project

Support and secure federal funding for the Upper Newport Bay Ecosystem Restoration Project to restore the Upper Newport Bay to its optimal ecosystem. (Policy NR 16.1) (*Imp 14.12, 14.13, 14.14*)

HB 7.2 Management of Upper Newport Bay Ecological Reserve (UNBER)¹

Support and implement cooperative management of the Upper Newport Bay Ecological Reserve by cooperating with Orange County, California Department of Fish and Game, U.S. Fish and Wildlife Service, local universities and colleges, nonprofits, and volunteer organizations to improve resource management, implement resource enhancement projects, and expand opportunities for passive public access, recreation, and education. (Policy NR 16.3) (*Imp 14.3, 14.7, 14.11, 14.16*)

HB 7.3 Management of Upper Newport Bay Ecological Reserve

Assist the County of Orange in its management of the Upper Newport Bay Nature Reserve, including the Peter and Mary Muth Center, to enhance the Reserve's natural resources, passive public access (especially along the West Bay) and public education programs. (Policy NR 16.4) (*Imp 14.3, 23.4*)

¹ The Upper Newport Bay Ecological Reserve's official designation by the State of California may change to become "State Marine Park." Until such time as that occurs, the Newport Beach community will continue to refer to UNBER as an "Ecological Reserve."



Rocky intertidal reefs at Little Corona

HB 7.4 Public Uses within Upper Newport Bay Ecological Reserve

Maintain public use of the Upper Newport Bay Ecological Reserve to the extent such use is consistent with the preservation of sensitive resources. (Policy NR 16.5) (*Imp 2.1, 23.1*)

HB 7.5 Water-Related Education and Research within Upper Newport Bay

Promote facilities in and around Upper Newport Bay to adequately serve as water quality and estuarine education and research programs. (Policy NR 16.6) (*Imp 2.1, 23.1*)

HB 7.6 Water Quality Study

Retain qualified and objective water quality consultants to thoroughly review all scopes of work for any proposed water quality study: (a) to be conducted, sponsored or considered by the Watershed Management Committee (or any subcommittee or successor entity) in making any decision affecting water quality in Newport Beach; (b) related to water quality in the San Diego Creek and Santa Ana/Delhi Channel watersheds; and (c) that is relevant to any aspect of the establishment or enforcement of any order of the RWQCB including the Total Maximum Daily Loads (TMDL) for Upper Newport Bay.. (Policy NR 3.22) (*Imp 8.1, 17.1*)

Goal

HB 8

Enhancement and protection of water quality of all natural water bodies, including coastal waters, creeks, bays, harbors and wetlands. (Goal NR3)

Policies

- HB 8.1 Chemical Uses Impacting Water Quality**
Support regulations limiting or banning the use insecticides, fertilizers, and other chemicals which are shown to be detrimental to water quality. (Policy NR 3.1) *(Imp 8.1)*
- HB 8.2 Water Pollution Prevention**
Promote pollution prevention and elimination methods that minimize the introduction of pollutants into natural water bodies. (Policy NR 3.2) *(Imp 6.1, 8.1, 17.1, 18.1, 19.1)*
- HB 8.3 Ground Water Contamination**
Suspend activities and implement appropriate health and safety procedures in the event that previously unknown groundwater contamination is encountered during construction. Where site contamination is identified, implement an appropriate remediation strategy that is approved by the City and state agency with appropriate jurisdictions. (Policy NR 3.3) *(Imp 6.1)*
- HB 8.4 Storm Drain Sewer System Permit**
Require all development to comply with the regulations under the City's municipal separate storm sewer system permit under the National Pollutant Discharge Elimination System. (Policy NR 3.4) *(Imp 8.1, 19.1)*
- HB 8.5 Natural Water Bodies**
Require that development not result in the degradation of natural water bodies. (Policy NR 3.5) *(Imp 6.1, 19.1)*
- HB 8.6 Watershed Runoff Quality Control**
Represent Newport Beach by participating in watershed-based runoff reduction, water quality control, and other planning efforts with the California Regional Water Quality Control Board (RWQCB), the County of Orange, and upstream cities. Promote regulation of upstream dischargers (cities, Orange County, residential and commercial uses) in the San Diego Creek and Santa Ana/Delhi Channel watersheds. (Policy NR 3.6) *(Imp 14.3, 14.16)*
- HB 8.7 Newport Beach Water Quality Ordinance**
Update and enforce the Newport Beach Water Quality Ordinance. (Policy NR 3.7) *(Imp 20.14) (Imp 8.1)*
- HB 8.8 Permit Review Process**
Develop and maintain a water quality checklist to be used in the permit review process to assess potential water quality impacts. (Policy NR 3.8) *(Imp 17.1)*

HB 8.9 Water Quality Management Plan

Require new development applications to include a Water Quality Management Plan (WQMP) to minimize runoff from rainfall events during construction and post-construction. (Policy NR 3.9) (*Imp 7.1*)

HB 8.10 Best Management Practices

Implement and improve upon Best Management Practices (BMPs) for residences, businesses, development projects, and City operations. (Policy NR 3.10) (*Imp 8.1, 17.1, 18.1, 19.1*)

HB 8.11 Site Design and Source Control

Include site design and source control BMPs in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the National Pollutant Elimination System, structural treatment BMPs will be implemented along with site design and source control measures. (NR 3.11) (*Imp 7.1*)

HB 8.12 Reduction of Infiltration

Include equivalent BMPs that do not require infiltration, where infiltration of runoff would exacerbate geologic hazards. (Policy NR 3.12) (*Imp 6.1, 19.1*)

HB 8.13 Natural Wetlands

Promote the use of natural wetlands to improve water quality. (Policy NR 3.13) (*Imp 6.1, 19.1*)

HB 8.14 Runoff Reduction on Private Property

Retain runoff on private property to prevent the transport of pollutants into recreational waters, to the maximum extent practicable. (Policy NR 3.14) (*Imp 17.1*)

HB 8.15 Street Drainage Systems

Require all street drainage systems and other physical improvements created by the City, or developers of new subdivisions, to be designed, constructed, and maintained to minimize adverse impacts on water quality. Investigate the possibility of treating or diverting street drainage to minimize impacts to water bodies. (NR 3.15) (*Imp 7.1*)

HB 8.16 Siting of New Development

Require that development be located on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources that provide important water quality benefits. (Policy NR 3.16) (*Imp 3.1 6.1*)

HB 8.17 Parking Lots and Rights-of-Ways

Require that parking lots and public and private rights-of-way be maintained and cleaned frequently to remove debris and contaminated residue. (Policy NR 3.17) *(Imp 2.1)*

HB 8.18 Water Quality Education

Effectively communicate water quality education to residents and businesses, including the development of a water quality testing lab and educational exhibits at various educational facilities. (Policy NR 3.18) *(Imp 29.1)*

HB 8.19 Natural Drainage Systems

Require incorporation of natural drainage systems and stormwater detention facilities into new developments, where appropriate and feasible, to retain stormwater in order to increase groundwater recharge. (Policy NR 3.19) *(Imp 7.1)*

HB 8.20 Impervious Surfaces

Require new development and public improvements to minimize the creation of and increases in impervious surfaces, especially directly connected impervious areas, to the maximum extent practicable. Require redevelopment to increase area of pervious surfaces, where feasible. (Policy NR 3.20) *(Imp 6.1)*

HB 8.21 Water-Related Education and Research within Upper Newport Bay

Promote facilities in and around Upper Newport Bay to adequately serve as water quality and estuarine education and research programs. (Policy NR 16.6) *(Imp 2.1, 23.1)*

HB 8.22 Animal Impacts on Water Quality

Limit feeding animals and depositing food or fish parts in Newport Bay. (Policy NR 3.21) *(Imp 8.1, 21.1)*

Visual Character

Goal

HB 9

A variety of beach/bulkhead profiles that characterize its recreational, residential, and commercial waterfronts.

Policies

HB 9.1 Design of New or Renovated Bulkheads

Balance private property rights, natural harbor tidal and current forces and other coastal processes (such as erosion and accretion) and harbor aesthetics with

other policies when considering designs for new or renovated bulkhead permits. *(Imp 2.1, 5.1)*

HB 9.2 Protection of Beach Profile

Permit and design bulkheads and groins to protect the character of the existing beach profiles and to restore eroded beach profiles found around the Harbor and island perimeters, and the safe navigation and berthing of vessels. *(Imp 2.1, 5.1)*

HB 9.3 Structures Impacting Visual Resources

Limit structures bayward of the bulkhead line to piers, floats, groins, appurtenances related to marine activities, and public walkways. *(Imp 2.1, 5.1)*

HB 9.4 Abandoned Vessels

Utilize City, county, state, and federal regulations to remove derelict, abandoned and unseaworthy vessels from City controlled tidelands promptly. *(Imp 14.3, 14.6, 21.1, 21.4)*

Administration

Goal

HB 10

Coordination between the City, county, state, and federal agencies having regulatory authority in the Harbor and Bay.

Policies

HB 10.1 Joint City/County Study

Prepare and fund a joint City/County study that would do the following:

- Identify the respective services provided by the City and County in Newport Harbor
- Determine the cost of those services
- Identify opportunities for the City and County to realign resources to provide services at reduced costs
- Identify the sources of revenue available to defray the cost of those services
- Identify potentially feasible methods of providing those services with volunteers rather than with public agency personnel (NR 11.2) *(Imp 21.4)*

HB 10.2 Review and Update of Harbor Standards and Regulations

Periodically review and update as appropriate all Harbor planning, design, engineering, and environmental criteria, standards, requirements and processes. *(Imp 9.1, 21.1, 21.4)*

HB 10.3 Harbor Area Management Plan

Develop a Harbor Area Management Plan that will provide a comprehensive approach to the management of the resources of Newport Bay such as protection of eelgrass and other natural resources, dredging for navigation, and continued use of private piers. (Policy NR 11.1) (*Imp 21.1*)

Goal

HB 11

Adequate harbor access for coastal-dependent harbor maintenance equipment and facilities.

Policies

HB 11.1 Harbor Maintenance Equipment and Facilities

Provide harbor access for harbor maintenance equipment and facilities, including dredging, dock demolition, repair, and construction, mooring services, debris and spill management equipment, and general harbor construction, maintenance and repair. (*Imp 14.3, 14.6, 21.1, 21.4*)

HB 11.2 Interagency Cooperation

Work with other controlling agencies within the Harbor, and/or the Bay, to define an area that can support harbor maintenance facilities and equipment. (*Imp 14.3, 14.6, 21.1, 21.4*)

Goal

HB 12

Balance between harbor revenues and expenses.

Policies

HB 12.1 Tideland Revenue

Receive a market rate of return from all tideland users to recapture all related City investment, services, and management costs. (*Imp 30.2*)

HB 12.2 Alternative and Supplemental Funding

Provide alternative and supplemental Harbor funding, including seeking federal and state grants and loans for boater safety, education, maintenance, and capital improvements of the Harbor. (*Imp 30.2*)

HB 12.3 Tideland Leases and Permits

Review the administration of tidelands leases and permits, and consider accepted Best Management Practices to assist in redevelopment, maintenance,

and financing of waterfront developments, and to reflect market value in the lease rates. (*Imp 30.2*)

HB 12.4 Tideland Permit Fees

Receive full cost recovery for permit processing. (*Imp 21.1*)

Goal

HB 13

Maintain and enhance deep water channels and ensure they remain navigable by boats. (Goal NR 14)

Policies

HB 13.1 Sediment Management within Newport Bay

Develop a comprehensive sediment management program that provides for safe navigation and improved water quality. (Policy NR 13.1) (*Imp 14.3, 14.11, 21.1*)

HB 13.2 Cooperation with U.S. Army Corps of Engineers

Cooperate with the U.S. Army Corps of Engineers in their maintenance and delineation of federal navigational channels at Newport Harbor in the interest in providing navigation and safety. (Policy NR 13.2) (*Imp 14.11*)

HB 13.3 Permit Processing

Secure blanket permits or agreements through the U.S. Army Corps of Engineers and the California Coastal Commission to expedite permit processing for residential and commercial dock owners in the Bay. (Policy NR 14.3) (*Imp 14.6, 14.11*)

HB 13.4 Shoreline Protection Alternatives

Encourage the use of nonstructural methods, such as dune restoration and sand nourishment, as alternatives to shoreline protective structures. (Policy S 2.5) (*Imp 8.1, 21.2*)

HB 13.5 Maintenance of Beach Width and Elevations

Develop and implement a comprehensive beach replenishment program to assist in maintaining beach width and elevations. Analyze monitoring data to determine nourishment priorities, and try to use nourishment as shore protection, in lieu of more permanent hard shoreline armoring options. (Policy S 3.3) (*Imp 8.1, 21.2*)

HB 13.6 Beach Width Monitoring

Monitor beach width and elevations and analyze monitoring data to establish approximate thresholds for when beach erosion or deflation will reach a point

that it could expose the backshore development to flooding or damage from storm waves. (Policy S 3.2) (*Imp 28.1*)

HB 13.7 Emergency Use of Coastal Facilities

Establish procedures and public/private cooperation and communication for the emergency use of coastal facilities and equipment in advance of flood, storm, pollution, dredging, vessel sinking, and other events, supplementing other safety and rescue bases and equipment. (Policy S 9.8) (*Imp 28.2*)