

**ORDINANCE NO. 2025- 37**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING VARIOUS PROVISIONS OF THE NEWPORT BEACH MUNICIPAL CODE TO REFLECT ORGANIZATIONAL RESTRUCTURING TO THE CITY ATTORNEY, FINANCE, HUMAN RESOURCES, AND PUBLIC WORKS DEPARTMENTS**

**WHEREAS**, the City of Newport Beach (“City”) is a charter City, governed by a charter adopted by the citizens of the City;

**WHEREAS**, Article XI, Section 5 of the Constitution of the State of California (“State”) authorizes charter cities to enact ordinances with respect to their municipal affairs;

**WHEREAS**, Section 200 of the City Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State;

**WHEREAS**, the City Council approved a restructuring of various departments within the City including establishment of the Municipal Operations Department and Administrative Services Department as well as consolidating Risk Management within the City Attorney’s Office;

**WHEREAS**, amendments to the NBMC are needed to reflect the structural reorganization; and

**WHEREAS**, the City Council held a public meeting on December 9, 2025, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 et seq. (“Ralph M. Brown Act”). Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

**NOW THEREFORE**, the City Council of the City of Newport Beach ordains as follows:

**Section 1:** The various provisions of the Newport Beach Municipal Code are amended as set forth in Exhibit "A" which is attached hereto and incorporated herein by reference.

**Section 2:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 3:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4:** The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

**Section 5:** Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

**Section 6:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 9th day of December, 2025, and adopted on the 13th day of January, 2026, by the following vote, to-wit:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_


ABSENT: \_\_\_\_\_

\_\_\_\_\_  
, Mayor

**ATTEST:**

\_\_\_\_\_  
Lena Shumway, City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
Aaron C. Harp, City Attorney

Attachment – Exhibit A – Newport Beach Municipal Code Amendments

## EXHIBIT "A"

### NEWPORT BEACH MUNICIPAL CODE AMENDMENTS

#### Title 1 GENERAL PROVISIONS

#### Chapter 1.05 ADMINISTRATIVE CODE ENFORCEMENT PROGRAM

**1. Subsection (G) of Section 1.05.020 (Authority and Administrative Citation Fines) of the Newport Beach Municipal Code is amended to read as follows:**

**1.05.020 Authority and Administrative Citation Fines.**

G. All fines imposed under this section shall be due and payable to the City's Administrative Services Department within thirty (30) days from the service of an administrative citation.

**2. Subsection (F) of Section 1.05.050 (Administrative Costs Recovery) of the Newport Beach Municipal Code is amended to read as follows:**

**1.05.050 Administrative Costs Recovery.**

F. Request for an Appeal on Administrative Costs. A responsible person who receives a summary of administrative costs shall have the right to an administrative hearing before a Hearing Officer on their objections to the summary of administrative costs.

1. Request for an Appeal. A request for an appeal shall be filed with the City's Administrative Services Department within thirty (30) days of the service of the summary of administrative costs on a form provided by the Administrative Services Department.

2. Hearing. Within sixty (60) days of the filing of a request for an appeal, and on ten (10) days' prior written notice to the responsible person, a Hearing Officer shall hold a hearing on the objections to the summary of administrative costs.

3. Factors to Be Considered by a Hearing Officer. The Hearing Officer shall consider whether the costs identified in the summary of administrative costs are reasonable under the circumstances of the enforcement action including the following:

- a. Whether the responsible person created the violation;
- b. Whether there is a present ability to correct the violation;

- c. Whether the responsible person acted promptly to correct the violation; and
  - d. The degree of cooperation provided by the responsible person.
4. The failure of any responsible person to appear at the administrative hearing before the Hearing Officer on the summary of administrative costs shall be deemed a failure to exhaust the responsible person's administrative remedies with regard to the summary of administrative costs.

**3. Section 1.05.060 (Appeal of Administrative Citation) of the Newport Beach Municipal Code is amended to read as follows:**

**1.05.060 Appeal of Administrative Citation.**

A. Any recipient of an administrative citation may contest that there was a violation of this Code or that he or she is the responsible person by completing a request for hearing form and returning it to the City's Administrative Services Department within twenty-one (21) days from the date of service of the administrative citation, together with an advance deposit of the fine or a notice that a request for an advance deposit hardship waiver pursuant to subsection (B) of this section has been filed. Any administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

B. Any responsible person who requests a hearing to contest that there was a violation of this Code or that he or she is the responsible person for the violation and who is financially unable to make the advance deposit of the fine as required may file a request for an advance deposit hardship waiver within fifteen (15) days from the date of service of the citation. The failure of any person to timely file a written request for an advance deposit hardship waiver with the City's Administrative Services Director shall be deemed a failure to exhaust the person's administrative remedies with regard to the advance deposit hardship waiver.

1. The request for an advance deposit hardship waiver shall be in writing and describe with particularity the responsible person's actual financial inability demonstrating why all or a part of the fine cannot be paid. Further, the written request for an advance deposit hardship waiver must be accompanied by a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City's Administrative Services Director the responsible person's actual financial inability that necessitates an advance deposit hardship waiver. The City's Administrative Services Director is entitled to request additional documentation and information from the responsible person to fully assess the waiver request. The failure of any responsible person to timely submit all requested additional documentation and information to the City's Administrative Services

Director as requested shall be deemed a failure to exhaust the responsible person's administrative remedies with regard to the advance deposit hardship waiver.

2. Once a complete written request for an advance deposit hardship waiver is filed with the City's Administrative Services Director, the requirement of depositing the full amount of the fine shall be stayed until the City's Administrative Services Director determines whether to grant, grant in part, or deny the request. The written determination of the City's Administrative Services Director shall be served on the person requesting the advance deposit hardship waiver as provided for in this Code. The written determination of the Administrative Services Director shall be final.

3. If the City's Administrative Services Director grants the advance deposit hardship waiver, the responsible person shall not be required to deposit the fine in advance of the hearing.

4. If the City's Administrative Services Director grants in part the advance deposit hardship waiver, the responsible person shall remit that amount of the fine as a deposit that the City's Administrative Services Director determines the responsible person has the ability to pay within ten (10) days of that decision or twenty-one (21) days from service of the administrative citation, whichever is later.

5. If the City's Administrative Services Director denies the request for an advance deposit hardship waiver, the responsible person shall remit the full amount of the fine as a deposit to the City within ten (10) days of that decision or twenty-one (21) days from service of the administrative citation, whichever is later.

6. The granting, or granting in part, of any request for an advance deposit hardship waiver shall not excuse or discharge any continuation or repeated occurrence of any violation of this Code, nor shall it bar further enforcement action by the City.

7. The granting, or granting in part, of any request for an advance deposit hardship waiver shall not excuse the responsible person from paying the full amount of the fine if the administrative citation is upheld by the Hearing Officer following an administrative hearing.

#### **Chapter 1.08 RULES OF CONSTRUCTION**

**4. Section 1.08.120 (Definitions) of the Newport Beach Municipal Code is amended to add "Administrative Services Director" and "Municipal Operations Director" and modify the definitions of "City Attorney," "City Treasurer," "Finance Director," "Human Resources Director," "Revenue Division," and "Risk Manager" to read as follows:**

### **1.08.120 Definitions.**

Administrative Services Director. The term "Administrative Services Director" means the individual who manages and directs the Administrative Services Department. For all purposes including, but not limited to, those powers, obligations and duties set forth in the City Charter, the Municipal Code, or any, contract, rule, or regulation, the Administrative Services Director shall be the City's Finance and Human Resources Director.

City Attorney. The term "City Attorney" means the official appointed by the City Council to serve as the City Attorney and who manages the City Attorney's Office.

City Treasurer. The term "City Treasurer" means the individual serving as the City's Administrative Services Director.

Finance Director. The term "Finance Director" means the individual serving as the Administrative Services Director.

Human Resources Director. The term "Human Resources Director" means the individual serving as the Administrative Services Director.

Municipal Operations Director. The term "Municipal Operations Director" means the individual appointed to manage and direct the City's Municipal Operations Department.

Revenue Division. The term "Revenue Division" means the City's Administrative Services Department Revenue Division.

Risk Manager. The term "Risk Manager" means the individual appointed as the City Attorney.

## **Chapter 1.12 CITATIONS AND WARRANTS**

### **5. Subsection (B) of Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations) of the Newport Beach Municipal Code is amended to read as follows:**

#### **1.12.020 Authority of Public Officers or Employees to Issue Citations.**

B. The following designated public officers and employees shall have the power to issue citations for violations of the following provisions of this Code:

1. The Fire Chief and other employees holding positions in the Fire Department designated by the Fire Chief shall have the power to issue citations for any violation of Titles 5.9, 11 and 17, Chapters 7.04, 7.16, 7.20, and 7.30, and Sections 6.04.050, 6.04.190 and 10.06.010.

2. The Revenue Manager and other employees holding positions in the Administrative Services Department designated by the Administrative Services Director shall have the power to issue citations for any violations of Titles 3, 5, 6 and 10, Chapters 12.62 and 12.63, and Section 12.40.060.
3. The Building Official, and other employees holding positions in the Building Division designated by the Building Official, shall have the power to issue citations for any violation of Title 15.
4. Park Patrol Officers shall have the power to issue citations for violations of Chapters 11.03 and 11.04 and for violations of any provision of this Code occurring in parks or parking violations occurring in parking lots servicing parks and other City facilities.
5. The City Clerk shall have the power to issue administrative citations for violations of Chapter 1.28.

**Chapter 1.20**  
**UNCLAIMED PROPERTY**

6. **Section 1.20.020 (Holding and Disposal of Unclaimed Property) of the Newport Beach Municipal Code is amended to read as follows:**

**1.20.020 Holding and Disposal of Unclaimed Property.**

Such property shall be stored in a safe place for a period of at least three months, and such money shall be deposited with the Administrative Services Director for a period of not less than three months, unless sooner claimed by the true owner, and shall be deemed to be unclaimed property or unclaimed money, subject to disposal as provided in this chapter.

7. **Section 1.20.030 (True Owner May Claim Property or Money) of the Newport Beach Municipal Code is amended to read as follows:**

**1.20.030 True Owner May Claim Property or Money.**

During such time as any such property or money is so held, it may be delivered or paid to the true owner. Such property shall be delivered upon proof of ownership satisfactory to the Chief of Police after ten (10) days' notice by mail to any others who have asserted a claim of ownership, at any address given by such persons. Such money shall be paid to the true owner upon written order to the Administrative Services Director from the Chief of Police. The Chief of Police shall make such order upon the same proof of ownership and with the same notice as prescribed in the case of property. If ownership cannot be determined to the satisfaction of the Chief of Police, he or she may refuse to deliver such

property or order the payment of such money to anyone until ordered to do so by a court of competent jurisdiction.

**8. Section 1.20.080 (Proceeds to be Deposited in General Fund) of the Newport Beach Municipal Code is amended to read as follows:**

**1.20.080 Proceeds to be Deposited in General Fund.**

After such auction is completed, the proceeds of the auction shall be delivered to the Administrative Services Director for deposit in the general fund.

**Title 2  
ADMINISTRATION AND PERSONNEL**

**9. The Table of Contents of Chapter 2.12 (Administrative Departments) of the Newport Beach Municipal Code is renumbered and amended to read as follows:**

**Chapter 2.12  
ADMINISTRATIVE DEPARTMENTS\***

Sections:

2.12.010	Departments Designated.
2.12.020	Authority of City Manager.
2.12.030	Administrative Services Department.
2.12.040	Community Development Department.
2.12.050	Fire Department.
2.12.060	Harbor Department.
2.12.070	Library Services Department.
2.12.080	Municipal Operations Department.
2.12.090	Police Department.
2.12.100	Public Works Department.
2.12.110	Recreation and Senior Services Department.
2.12.120	Utilities Department.

**10. Section 2.12.010 (Departments Designated) of the Newport Beach Municipal Code is amended to read as follows:**

**2.12.010 Departments Designated.**

The administrative functions of the City is divided into the following departments:

Administrative Services Department

Community Development Department

Fire Department

Harbor Department

Library Services Department

Municipal Operations Department

Police Department

Public Works Department

Recreation and Senior Services Department

Utilities Department

**11. Section 2.12.030 (Community Development Department) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**2.12.030 Administrative Services Department.**

The Administrative Services Department shall be under the supervision of the Administrative Services Director, who shall have charge of financial and human resources affairs of the City. The functions of the Administrative Services Department, in addition to those duties imposed on the Finance Director and the City Treasurer by the City Charter, shall include:

- A. Enforcement of the City's business license and transient occupancy tax regulations;
- B. Management of the City's finances, financial statements, audits, revenue collection and billing, financial management system budget, payroll, accounting, cashiering, treasury and investments;
- C. Purchase of supplies, equipment, training, and services used by City departments;
- D. Disposal of obsolete and surplus City property;
- E. Management of the City's parking program, including meters and lots;
- F. Establishment and maintenance of the City's personnel policies, employee classifications and compensation policies and other conditions of employment to assist the City Manager in carrying out the provisions of Chapters 2.24 and 2.28;
- G. Advise and liaison to the Civil Service Board; and
- H. Such other functions as may be delegated by the City Manager or the City Council.

**12. Section 2.12.040 (Finance Department) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**Section 2.12.040 Community Development Department.**

The Community Development Department shall be under the supervision of the Community Development Director. The functions of the Community Development Department shall include:

- A. Administration and enforcement of the provisions of this Code relating to planning, zoning and subdivisions, nuisance abatement and code enforcement, and advising and assisting the Planning Commission in such administration vested in that Commission;
- B. Administration and enforcement of the building, electrical, plumbing and mechanical codes, including grading and swimming pool regulations;
- C. Administration and enforcement of State regulations governing energy conservation and sound transmission;
- D. Preparation and presentation of reports to the City Council and the Planning Commission on various aspects of city planning;
- E. Preparation and maintenance of the General Plan;
- F. Advising the public on zoning and planning matters;
- G. Receipt and processing of subdivision maps; and
- H. Such other functions as may be delegated by the City Manager or the City Council.

**13.Section 2.12.060 (Human Resources Department) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**2.12.060 Harbor Department.**

The Harbor Department shall be under the supervision of the Harbormaster who shall serve as the head of the Department. The functions of the Harbor Department shall include:

- A. Management of the City's resources in Newport Harbor, including administration of Title 17;
- B. Operation of a headquarters at Marina Park or other location selected by the City Manager;
- C. Patrol of Newport Harbor;
- D. Provision of code enforcement on the waters of Newport Harbor;

- E. Management of the City's marinas, moorings, docks, wharfs and visitor-serving harbor facilities and amenities;
- F. Promotion of harbor and boating safety;
- G. Addressing inquiries from residents and visitors regarding Newport Harbor;
- H. Management of City-owned marinas;
- I. Providing staff to act as the liaison to the City's Harbor Commission;
- J. Management of a pollution prevention program in Newport Harbor; and
- K. Such other functions as may be delegated by the City Manager.

**14. Section 2.12.080 (Utilities Department) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**2.12.080 Municipal Operations Department.**

- A. The Municipal Operations Department shall be under the supervision of the Administrative Municipal Operations Director. The functions of the Municipal Operations Director shall include:
  - B. Street and beach maintenance and cleaning;
  - C. Administration and enforcement of State regulations and provisions of this Code related to the collection, transport, diversion and disposal of solid waste;
  - D. Maintenance and repair of streets, alleys, curbs, sidewalks, bridges, piers, bulkheads and floats;
  - E. Maintenance and repair of City equipment;
  - F. Signage and carpentry;
  - G. Maintenance of street striping, barricade, curb, crosswalk, and parking stall painting;
  - H. Street name and regulation sign posting maintenance;
  - I. Custodial maintenance and repair services for City buildings and facilities;
  - J. Landscaping and maintenance of City parks, parkway trees, and planted areas on City-owned property, easements and rights-of-way; and

K. Such other functions as may be delegated by the City Manager or the City Council.

**15. Section 2.12.100 (Public Works Department) of the Newport Beach Municipal Code is amended to read as follows:**

**2.12.100 Public Works Department.**

The Public Works Department shall be under the supervision of the Public Works Director who shall also be the City Engineer Pro Tem. The functions of the Public Works Department shall include:

- A. Planning, installation, design, preparation, review and approval of plans, specifications and working details, operations and maintenance, and administration of contracts for the construction of public works, including streets, storm drains, water quality sewers, water, harbors, street lighting, traffic signals and other public facilities;
- B. Right-of-way acquisition;
- C. Subdivision engineering and development services;
- D. Traffic engineering services;
- E. Engineering services for other City departments;
- F. Engineering planning for water, sewer and electrical systems;
- G. Water quality inspections and reporting as required by law;
- H. Activities over and management of the City's tidelands assets in Upper and Lower Newport Bay;
- I. Street striping, and barricade, curb, crosswalk, parking stall, and pavement painting; and
- J. Such other functions as may be delegated by the City Manager or the City Council.

**16. Section 2.12.120 (Harbor Department) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**2.12.120 Utilities Department.**

The Utilities Department shall be under the supervision of the Utilities Director. The functions of the Utilities Department shall include:

- A. Maintenance and operation of the City water system;
- B. Maintenance and operation of the City sewer system;

- C. Maintenance and operation of the City's street sweeping program;
- D. Maintenance and operation of the City's storm drain system;
- E. Maintenance and operation of the City street lighting system;
- F. Maintenance of backup electrical equipment in City buildings;
- G. Management of the City's oil and gas operations;
- H. Management of the regulations found in Title 14; and
- I. Such other functions as may be delegated by the City Manager or the City Council.

**17. The Table of Contents of Chapter 2.14 (City Attorney's Office) of the Newport Beach Municipal Code is added to read as follows:**

**Chapter 2.14  
CITY ATTORNEY'S OFFICE**

Sections:

**2.14.010 City Attorney's Office.**

**18. Section 2.14.010 (City Attorney's Office) is added to Chapter 2.14 (City Attorney's Office) of the Newport Beach Municipal Code to read as follows:**

**2.14.010 City Attorney's Office.**

The City Attorney's Office shall be under the supervision of the City Attorney. The functions of the City Attorney's Office, in addition to those duties imposed by the City Charter, shall include:

- A. Advise the City Council, boards and commissions, and City staff on all legal issues pertaining to municipal operations;
- B. Represent the City Council, staff, and the City as an institution either directly or through special counsel in all proceedings and actions before administrative bodies and tribunals;
- C. Enforce either directly or through special counsel the City of Newport Beach Municipal Code;
- D. Manage all claims, subrogation matters, writs, actions, lawsuits, worker's compensation, and other legal or equitable proceedings in which the City, its elected officials, officers or employees are involved in their official capacity or as workers' compensation claimants;

- E. Provide risk management, assessment, planning and develop procedures to address loss prevention, loss reduction, and the purchase and provision of insurance;
- F. Administer the legal business affairs of the City through managing in-house legal services and outside counsel relationships; and
- G. Such other functions as may be delegated by the City Council.

**Chapter 2.16  
OFFICERS' BONDS**

**19. Section 2.16.010 (Bonds of City Officials) of the Newport Beach Municipal Code is amended to read as follows:**

**2.16.010 Bonds of City Officials.**

Official bonds shall be provided for all officials and employees of the City hereinafter designated, and for such additional classes or employees as may be authorized or required by the City Council, to indemnify the City of Newport Beach against loss by reason of such officer's or employee's failure to faithfully perform the duties of his office or employment as the same exist or may subsequently be imposed. The amount of coverage shall be as authorized or required by the City Council and as hereinafter specified for the following named positions, and may be provided by one or more individual or blanket coverage bonds or a combination of individual and blanket coverage bonds.

Administrative Services	\$100,000.00
Director	
City Manager	\$50,000.00
Purchasing Agent	\$25,000.00

Any such bond shall be executed by a surety company licensed by the State of California to do business as surety, which shall be jointly and severally liable to the City of Newport Beach up to the principal amount of any such bond or bonds executed by it.

All such bonds shall be delivered to the City and shall be in a form approved by the City Attorney and the same shall be filed with the City Clerk.

**Title 3  
REVENUE AND FINANCE**

**Chapter 3.12  
PROPERTY DEVELOPMENT TAX**

**20. Section 3.12.070 (Tax Liability—Enforcement) of the Newport Beach Municipal Code is amended to read as follows:**

**3.12.070 Tax Liability—Enforcement.**

The taxes imposed by this chapter are due from the person by or on behalf of whom a residential, commercial or industrial unit or building or a mobilehome park is constructed, whether such person is the owner or a lessee of the land upon which the construction is to occur. The Administrative Services Director shall collect the tax and any penalty and interest due hereunder. The full amount due under this chapter shall constitute a debt to the City of Newport Beach. An action for the collection thereof may be commenced in the name of the City in any court having jurisdiction of the cause.

**21. Section 3.12.100 (Refunds) of the Newport Beach Municipal Code is amended to read as follows:**

**3.12.100 Refunds.**

Any tax, penalty or interest paid to the City under this chapter for any building or unit of a building or mobile home park which is not constructed shall be refunded upon application of the taxpayer and a showing to the satisfaction of the Administrative Services Director that the building or unit has not been constructed or construction commenced and that the building permit issued for the building or unit has been canceled or surrendered or otherwise does not authorize the construction of the building or unit.

**Chapter 3.16  
UNIFORM TRANSIENT OCCUPANCY TAX\***

**22. The definition of “City Collector” set forth in Section 3.16.020 (Definitions) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.020 Definitions.**

City Collector. The term “City Collector” shall mean the Administrative Services Director.

**23. Section 3.16.030 (Tax Imposed) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.030 Tax Imposed.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of nine percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due when the transient ceases to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Administrative Services Director may require that such tax shall be paid directly to the Administrative Services Director.

**24. Section 3.16.040 (Exemptions) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.040 Exemptions.**

No tax shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax specified in this chapter, and only when in the performance of official duties thereof;
- B. Any officer or employee of a foreign government who is exempt by reason of express provision of Federal law or international treaty;
- C. A transient occupying a hotel pursuant to a qualifying rental agreement entered into prior to the first day of occupancy;
- D. An employee of an airline company who is occupying a hotel room in the course of his or her employment, but only when the room is rented by the airline employer pursuant to a qualifying rental agreement that has been preapproved by the Administrative Services Director;
- E. Any person or transient occupying a hotel room provided without rent charged (complimentary) to the person or transient by the operator, including but not limited to:
  - 1. Rooms provided to charitable organizations;
  - 2. Rooms provided to meeting planners who may book future hotel rooms and provide business and conferencing opportunities for the economic benefit of the City;
  - 3. Rooms provided to displeased guests; and/or
  - 4. Rooms provided to hotel employees;
- F. No exemption shall be granted except pursuant to an application filed when the rent is collected and under penalty of perjury upon a form prescribed by the Administrative

Services Director. It is the transient's responsibility to provide necessary proof of the exemption.

**25. Subsections (C) and (D) of Section 3.16.050 (Operator's Collection Duties) of the Newport Beach Municipal Code are amended to read as follows:**

**3.16.050 Operator's Collection Duties.**

C.1. The operator shall file with the Administrative Services Director a statement of each special package on a form ("special package application") provided by the Administrative Services Director. The special package application shall detail the benefits of the special package and an itemization of that portion of the special package that is rent and tax and each of the benefits. The operator shall provide written evidence to establish the claimed fair market value of each benefit other than rent and tax. The Administrative Services Director shall mark the date of receipt on the special package application and review the submitted information to determine if sufficient information is provided to verify the value of the benefits, rent and tax. The operator shall designate a specific name or number to the special package as part of the special package application. The special package application shall not be accepted unless accompanied by a fee for processing that has been established by resolution of the City Council.

2. The name or number designated on the special package application shall appear on all receipts and books of record whenever the special package is sold.

3. If the special package application is deemed incomplete, the Administrative Services Director will advise the operator of any required changes within fourteen (14) City business days. The operator must either make the required changes and resubmit the special package application or comply with subsection (A) of this section.

4. The Administrative Services Director shall approve, conditionally approve or disapprove the special package within fourteen (14) days of receipt of a complete special package application. In the event of disapproval the Administrative Services Director shall give the operator written notice of the reasons for disapproval. The effective date of the special package rate shall be the date on which the Administrative Services Director receives a complete special package application that is approved. A new special package application shall be submitted whenever the operator changes the rent or benefits of any previously approved special package.

D. The tax shall apply only to the amount of rent identified in the special package that has been approved by the Administrative Services Director.

**26. Section 3.16.060 (Registration of Hotel) of the Newport Beach Municipal Code is amended to read as follows:**

### **3.16.060 Registration of Hotel.**

Within thirty (30) days after commencing business each operator of any hotel renting occupancy to transients shall register the hotel with the Administrative Services Director and obtain a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued; and
- D. The following statement:

Transient occupancy registration certificate signifies that the person named on the certificate has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance (Chapter 3.16 of this Code) by registering with the Administrative Services Director for the purpose of collecting the tax from transients and remitting the tax to the Administrative Services Director. This certificate does not authorize any person to conduct any unlawful business, to conduct any lawful business in an unlawful manner or to operate a hotel without strictly complying with all local laws, including those requiring a permit from any board, commission, department or office of the City. This certificate does not constitute a permit.

The requirements of this section shall not apply to the operator of a hotel required to obtain a short term lodging permit pursuant to Section 5.95.020.

### **27. Section 3.16.070 (Reporting and Remitting) of the Newport Beach Municipal Code is amended to read as follows:**

#### **3.16.070 Reporting and Remitting.**

A. Each operator shall, on a form provided by the City, make a return to the Administrative Services Director of the total rents charged and received, the amount of tax collected for transient occupancies, the number of rental units available on the premises, and such other information as the Administrative Services Director may reasonably require. The return shall be made on or before the last day of the month following the close of each calendar quarter or on the day specified by the Administrative Services Director if a different reporting period has been established. Returns are considered made and taxes paid only upon receipt of the tax return and the tax by the City. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrative Services Director. The Administrative Services Director may establish either shorter or longer reporting periods for any individual certificate holder or category

of certificate holders if the Administrative Services Director deems it necessary or desirable in order to insure collection of the tax or to increase the efficiency of its administration. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment is made to the Administrative Services Director.

B. The filing of a return shall not preclude the City from collecting by appropriate action any tax actually due and payable pursuant to this chapter or taking any other action to enforce the provisions of this chapter. Each return shall be subject to audit and verification by the Administrative Services Director or authorized agents of the City, who are authorized to examine, audit and inspect such books and records of any operator as may be necessary in their judgment to verify or ascertain the amount of tax due. The Administrative Services Director or agent of the City shall not have right of access to, nor examine, records that are not pertinent to ascertaining the amount of tax due unless the operator fails to provide City with the means of verifying information relevant to the obligations imposed by this chapter.

**28. Subsection (A) of Section 3.16.075 (Duty of Successor of Operator) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.075 Duty of Successor of Operator.**

A. If an operator who is liable for any tax or penalties under this chapter sells or otherwise disposes of the hotel operation, his/her successor shall notify the Administrative Services Director of the date of sale at least thirty (30) days before the date of sale, or if the decision to sell was made less than thirty (30) days prior to the actual sale, then immediately, and shall upon withhold a sufficient portion of the purchase price to equal the amount of any unpaid taxes or penalty until the selling operator produces a receipt from the Administrative Services Director showing that the tax or penalty has been paid or a tax clearance certificate from the Administrative Services Director stating that no tax or penalty is due. If the seller does not present a receipt or tax clearance certificate within thirty (30) days after such successor commences to conduct business, the successor shall deposit the withheld amount with the Administrative Services Director pending settlement of the account of the seller.

**29. Subsection (B) of Section 3.16.085 (False and Fraudulent Reports—Penalties) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.085 False and Fraudulent Reports—Penalties.**

B. If the Administrative Services Director determines that the nonpayment of any remittance (tax and/or penalty) due under this chapter is due to fraud, a penalty of twenty-

five (25) percent of the amount of the tax shall be added thereto in addition to any penalties stated in Section 3.16.080.

**30. Section 3.16.090 (Enforcement Proceedings—Appeal) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.090 Enforcement Proceedings—Appeal.**

A. If any operator shall fail or refuse to collect the tax or to make, within the time provided in this chapter, any report and remittance of the full amount of the tax required by this chapter, the Administrative Services Director shall use his/her best efforts to obtain information on which to base an estimate of the tax due. The Administrative Services Director shall, upon making a determination of the estimated tax or other violation, provide the operator with written notice of the determination and the factual basis for the estimated tax or other violation. The written notice of determination shall be served on the operator personally or by deposit in the United States mail, postage prepaid, addressed to the operator at the last known place of address. The operator may, within ten (10) days after service of written notice of determination, appeal the determination by filing a written appeal with the Administrative Services Director specifying the basis of the appeal and amount of tax or nature of violation contested.

B. If the operator fails to timely appeal a determination by the Administrative Services Director, the determination shall be final and conclusive and the tax, interest and penalties shall become immediately due and payable by the operator and/or the violation shall be deemed established.

C. If the operator files a timely appeal of the determination, the Administrative Services Director shall appoint a hearing officer and give the operator not less than fifteen (15) days' written notice of the hearing on the appeal. The operator shall have the right to present evidence relevant to the determination and the hearing shall be conducted in accordance with the general rules applicable to any administrative hearing. The hearing officer shall submit to the City Manager a transcript of the hearing together with recommended findings of fact and conclusions of law. The City Manager shall consider the material submitted by the hearing officer and render a decision within fifteen (15) days after submission. 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.

**31. Section 3.16.110 (Records) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.110 Records.**

It shall be the duty of every operator liable for the collection and remittance to the City of any tax imposed by this chapter to keep and preserve, for a period of not less than four

years, all records necessary to determine the amount of tax the operator was required to collect and remit to the City. All retained records shall be subject to audit as provided in Section 3.16.070. The Administrative Services Director shall have the right to inspect and/or audit these records at any time during normal business hours on twenty-four (24) hours' written notice. The records shall be maintained at the operator's premises or at a location convenient to the Administrative Services Director. The records shall include at least the following:

- A. Daily summaries of room occupancies;
- B. A record of each occupancy charge for which exemption is claimed, the City-provided form of exemption, if applicable, including the name of the individual occupying the room, dates of occupancy and reasons for exemption;
- C. All qualifying rental agreements.

**32. Section 3.16.120 (Refunds) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.120 Refunds.**

- A. Claim Required. Whenever the amount of any tax, interest or penalty has been overpaid, paid more than once or has been erroneously or illegally collected or received by the City, the tax may be refunded as provided in subsections (B) and (C) of this section; provided, that a written claim for refund is filed with the Administrative Services Director. The claim for refund must be filed within one year of the date of payment, be made on forms furnished by the Administrative Services Director and be signed by the operator under penalty of perjury.
- B. Claim by Operator. An operator may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Administrative Services Director that the person from whom the tax has been collected was not a transient. However, neither a refund nor a credit shall be allowed unless the amount of the tax collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.
- C. Claim by Transient. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection (A) of this section, but only when the tax was paid by the transient directly to the Administrative Services Director, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Administrative Services Director that the transient has been unable to obtain a refund from the operator who collected the tax.

D. Evidence. No refund shall be paid under the provisions of this section unless the claimant establishes his/her right by written evidence and to the satisfaction of the Administrative Services Director.

**33. Section 3.16.140 (Penalty for Violations) of the Newport Beach Municipal Code is amended to read as follows:**

**3.16.140 Penalty for Violations.**

No operator or other person shall willfully: (A) fail or refuse to register as required by this chapter; (B) fail to make any return required by this chapter; (C) fail or refuse to furnish a supplemental return or other data required by the Administrative Services Director; or (D) make a false or fraudulent return or claim.

**Chapter 3.28**

**VISITOR'S SERVICE FEE\***

**34. The definition of "City Collector" set forth in Section 3.28.010 (Definitions) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.010 Definitions.**

City Collector. The term "City Collector" shall mean the Administrative Services Director.

**35. Section 3.28.035 (Exemptions) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.035 Exemptions.**

No fee shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the fee specified in this chapter, and only when in the performance of official duties thereof;
- B. Any officer or employee of a foreign government who is exempt by reason of express provision of Federal law or international treaty;
- C. A transient occupying a hotel pursuant to a qualifying rental agreement entered into prior to the first day of occupancy;
- D. An employee of an airline company who is occupying a hotel room in the course of his or her employment, but only when the room is rented by the airline employer pursuant to a qualifying rental agreement that has been preapproved by the Administrative Services Director;

E. Any person or guest occupying a hotel room provided without rent charged (complimentary) to the person or guest by the operator, including but not limited to:

1. Rooms provided to charitable organizations;
2. Rooms provided to meeting planners who may book future hotel rooms and provide business and conferencing opportunities for the economic benefit of the City;
3. Rooms provided to displeased guests; and/or
4. Rooms provided to hotel employees;

F. No exemption shall be granted except pursuant to an application filed when the rent is collected and under penalty of perjury upon a form prescribed by the Administrative Services Director. It is the guest's responsibility to provide necessary proof of the exemption.

**36. Section 3.28.050 (Records) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.050 Records.**

It shall be the duty of every operator liable for the collection and payment to the City of any fee imposed by this chapter to keep and preserve, for a period of not less than four years, all records necessary to determine the amount of fees the operator was required to collect and pay to the City. All retained records shall be subject to audit as provided in Section 3.16.070. The Administrative Services Director shall have the right to inspect and/or audit these records at any time during normal business hours on twenty-four (24) hours' written notice. The records shall be maintained at the operator's premises or at a location convenient to the Administrative Services Director. The records shall include at least the following:

- A. Daily summaries of room occupancies;
- B. A record of each occupancy charge for which exemption is claimed, the City provided exemption form, if applicable, including the name of the individual occupying the room, dates for occupancy and reasons for exemption; and
- C. All qualifying rental agreements.

**37. Section 3.28.055 (Enforcement Procedures—Appeal) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.055 Enforcement Procedures—Appeal.**

The Administrative Services Director shall enforce any failure or refusal of any operator to collect the fee, or make any report or remittance of the fee, required by this chapter in

the same manner and subject to the same conditions and procedures as provided in Section 3.16.090.

**38. Subsection (A) of Section 3.28.060 (Duty of Successor of Operator) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.060 Duty of Successor of Operator.**

A. If an operator who is liable for any fee or penalties under this chapter sells or otherwise disposes of the hotel operation, his/her successor shall notify the Administrative Services Director of the date of sale at least thirty (30) days before the date of sale, or, if the decision to sell was made less than thirty (30) days prior to the actual sale, shall then immediately upon the sale withhold a sufficient portion of the purchase price to equal the amount of any unpaid fees or penalty until the selling operator produces a receipt from the Administrative Services Director showing that the fees or penalties have been paid or a clearance certificate from the Administrative Services Director stating that no fee or penalty is due. If the seller does not present a receipt or clearance certificate within thirty (30) days after such successor commences to conduct business, the successor shall deposit the withheld amount with the Administrative Services Director pending settlement of the account of the seller.

**39. Section 3.28.070 (Refunds) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.070 Refunds.**

A. Claim Required. Whenever the amount of any fee, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections (B) and (C) of this section; provided, that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Administrative Services Director within one year of the date of payment. The claim shall be on forms furnished by the Administrative Services Director.

B. Claim by Operator. An operator may claim a refund, or take as credit against visitor service fees collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Administrative Services Director that the person from whom the fee has been collected was not a guest; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the fee so collected has either been refunded to the guest or credited to rent subsequently payable by the guest to the operator.

C. Claim by Guest. A guest may obtain a refund of visitor service fees overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim

in the manner provided in subsection (A) of this section, but only when the fee was paid by the guest directly to the Administrative Services Director, or when the guest, having paid the fee to the operator, establishes to the satisfaction of the Administrative Services Director that the guest has been unable to obtain a refund from the operator who collected the fee.

D. Evidence. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.

**40. Section 3.28.085 (Penalty for Violations) of the Newport Beach Municipal Code is amended to read as follows:**

**3.28.085 Penalty for Violations.**

No operator or other person shall willfully: (A) fail or refuse to register as required by this chapter; (B) fail to make any return required by this chapter; (C) fail or refuse to furnish a supplemental return or other data required by the Administrative Services Director; or (D) make a false or fraudulent return or claim.

**Chapter 3.30**

**AIR QUALITY IMPROVEMENT TRUST FUND**

**41. Subsection (G) of Section 3.30.010 (Findings) of the Newport Beach Municipal Code is amended to read as follows:**

**3.30.010 Findings.**

G. For cities and counties located within the jurisdiction of the SCAQMD that comply with Section 44243 of the California Health and Safety Code, forty cents (\$0.40) of every dollar collected under California Health and Safety Code Section 44223 shall be distributed to the cities and counties on the basis of the jurisdiction's prorated share of population as defined by the State Administrative Services Department.

**42. The definition of "Fee Administrator" set forth in Section 3.30.030(B) (Definitions) of the Newport Beach Municipal Code is amended to read as follows:**

**3.30.030 Definitions.**

B. "Fee Administrator" shall mean the Administrative Services Director of the City.

**Chapter 3.32**  
**SPECIAL IMPROVEMENT DISTRICT FINANCING CODE**

**43. Section 3.32.320 (Establishment or Changing Appropriations Limit—Election on Proposition—Adjustment) of the Newport Beach Municipal Code is amended to read as follows:**

**3.32.320 Establishment or Changing Appropriations Limit—Election on Proposition—Adjustment.**

The City Council may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of a special improvement district to the qualified electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by California Government Code Sections 7901(b) and (c), except that the change in population may be estimated by the City Council in the absence of an estimate by the Administrative Services Department, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year.

**44. Section 3.32.890 (Signatures on Bonds or Coupons—Place Bonds Are Payable) of the Newport Beach Municipal Code is amended to read as follows:**

**3.32.890 Signatures on Bonds or Coupons—Place Bonds Are Payable.**

The bonds shall be signed by a signatory authorized to so sign by the City Council and shall be countersigned by a signatory authorized to so countersign by the City Council. All signatures on the bonds may be printed, lithographed, or engraved. If any officer whose signature appears on the bonds ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office. All bonds shall be payable at the office of the Director of Administrative Services or at the office of any agent designated by the City.

**Chapter 3.34**  
**MARINE CHARTER PASSENGER TAX**

**45. Subsection (A) of Section 3.34.060 (Reporting and Remitting) of the Newport Beach Municipal Code is amended to read as follows:**

**3.34.060 Reporting and Remitting.**

A. Each marine activities permittee, owner or operator shall, on or before the last day of the month following the close of the reporting period, as established by the Administrative Services Director, file a return with the Revenue Manager on forms provided by the City, listing the total number of passengers carried during the reporting period and the total tax collected by the permittee. The full amount of the tax collected shall be remitted to the Revenue Manager at the time the return is filed. Returns and tax payments shall be due immediately upon cessation of business for any reason. All taxes collected by permittees shall be held in trust for the account of the City until payment thereof is made to the Revenue Manager.

**Chapter 3.36**  
**COST RECOVERY FOR USER SERVICES**

**46. Subsection (E) and Exhibit "A" of Section 3.36.030 (Cost Recovery Percentages) of the Newport Beach Municipal Code are amended to read as follows:**

**3.36.030 Cost Recovery Percentages.**

E. Fees for service established in the fee resolution may be waived by:

1. The City Council;
2. The City Manager, up to an amount not to exceed one thousand dollars (\$1,000.00), per occurrence, for fees imposed on nonprofit organizations for nonprofit sponsored events; or
3. The City Manager or the Administrative Services Director up to an amount not to exceed five thousand dollars (\$5,000.00), per occurrence, if the City Manager or Administrative Services Director determines that the imposition of the fee would exceed the actual cost to the City or would result in duplicative fees for services rendered.

**Exhibit A**

The City's cost of providing the following services shall be recovered through direct fees charged for services. Exhibit "A" limits cost recovery fees to the percentages or dollar amounts indicated below.

Service	Percentage of Cost or Amount to Be Recovered from Direct Fees
<b>All Departments</b>	
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Successful	0%
Appeals—For Any User Services Appeal Not Otherwise Specified—Appellant Unsuccessful	50%
<b>Community Development Department</b>	
Chapter <u>17.65</u> Appeal—Appellant Successful	0%
Chapter <u>17.65</u> Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
<b>Building</b>	
Appeals Board Hearing—Appellant Successful	0%
Appeals Board Hearing—Appellant Unsuccessful	50%
Harbor Construction	50%
Preliminary Plan Review	First Two Hours Free, Full Cost Thereafter
<b>Planning</b>	
Appeals to City Council or Planning Commission—Appellant Successful	0%
Appeals to City Council or Planning Commission—Appellant Unsuccessful	50%
Coastal Development Permit Application Appeals from Zoning Administrator to Planning Commission	0%

<b>Service</b>	<b>Percentage of Cost or Amount to Be Recovered from Direct Fees</b>
General Plan Maintenance Fee	12%
Reasonable Accommodation	0%
<b>Administrative Services Department</b>	
Admin. Cite Hearings	0%
Parking Hearings	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Successful	0%
Short Term Lodging Permit Suspension or Revocation Hearing—Appellant Unsuccessful	50%
Zero Bill Reprint	0%
<b>Fire Department</b>	
<b>Emergency Medical Services</b>	
Advanced Life Support (ALS)—Nontransport	\$400
Basic Life Support (BLS)—Nontransport	\$400
ALS First Responder Fee	\$400
BLS First Responder Fee	\$400
<b>Harbor Department</b>	
Chapter <u>17.65</u> Appeal—Appellant Successful	0%
Chapter <u>17.65</u> Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%

<b>Service</b>	<b>Percentage of Cost or Amount to Be Recovered from Direct Fees</b>
Deposit/Late Cancellation Fee for Use of Human Lift— Marina Park	0%
Deposit/Late Cancellation Fee for Use of Human Lift— Balboa Marina PD	0%
<b>Library Services Department</b>	
Black and White Copies from Self-Service Copier or Printer	\$0.15
Color Copies from Self-Service Copiers or Printers	\$0.45
Use Fees—Materials	\$1
Inter-Library Loan	\$5
<b>Police Department</b>	
Bike Licenses	0%
Citation Sign-off	\$10
Fingerprinting—City Portion	\$25
Secondhand/Pawn Dealer Tag Check	0%
Registrant—Narcotics	0%
Registrant—Sex	0%
<b>Animal Shelter</b>	
Adoption Fee—Puppies	\$225

<b>Service</b>	<b>Percentage of Cost or Amount to Be Recovered from Direct Fees</b>
Adoption Fee—Senior Dog—Animal Over Eight (8) Years Old	\$70
Adoption Fee—Dog—All Other	\$150
Adoption Fee—Kittens	\$110
Adoption Fee—Senior Cat—Animal Over Eight (8) Years Old	\$70
Adoption Fee—Cat—All Other	\$90
Adoption Fee—Small Animals	\$45
Boarding Fee (per day)—Animals	\$25
Boarding Fee (per day)—Small Animals	\$10
Owner Turn-In Fee— Altered Animal	\$100
Owner Turn-In Fee—Unaltered Animal	\$200
Impound Fee—Dogs, Cats, Small Animals	\$62
<b>Public Works Department</b>	
Chapter <u>17.65</u> Appeal—Appellant Successful	0%
Chapter <u>17.65</u> Appeal to City Council or Harbor Commission—Appellant Unsuccessful	50%
RGP Dredging Permit	100%
<b>Recreation and Senior Services Department</b>	
<b>Adult Sports</b>	50%—95%

<b>Service</b>	<b>Percentage of Cost or Amount to Be Recovered from Direct Fees</b>
<b>Administrative Processing Fee</b>	\$5
<b>Badge Replacement</b>	\$5
<b>After School/Camp Programs</b>	
Camps	20%—50%
After-School/Teen Program	20%—50%
Preschool Program	20%—50%
<b>Aquatics</b>	20%—50%
<b>Contract Classes</b>	50%—95%
<b>Class Refunds</b>	
\$74 or less	\$10
\$75 or more	\$20
<b>Youth Sports</b>	20%—50%
<b>Special Events—Levels 1, 2, and 3</b>	
Resident, Level 1 and Late Fees for Level 1	0%—20%
Resident, Levels 2—3 and Late Fees for Levels 2—3	20%—50%
Nonresident, Levels 1—2 and Late Fees for Level 1	20%—50%
Nonresident, Level 3 and Late Fees for Levels 2—3	50%—95%
Appeal to City Council—Appellant Successful	0%

<b>Service</b>	<b>Percentage of Cost or Amount to Be Recovered from Direct Fees</b>
Appeal to City Council—Appellant Unsuccessful	50%—95%
<b>Natural Resources Programs</b>	0%—20%
<b>Senior Services</b>	
OASIS Transportation	\$1—\$3 each way
Contract Classes	20%—50%
Fitness Center	50%—95%
<b>Utilities Department</b>	
Construction Water Meter Establishment	50%
Fats, Oils, and Grease (FOG) Annual Permit	0%
<b>City Council, Board, Commission, Committee or Any Individual Member Thereof When Acting Within the Scope of Their Official Duties</b>	
Review from a Lower Body or Official	\$0

**Title 5  
BUSINESS LICENSES AND REGULATIONS\***

**Chapter 5.04  
GENERAL PROVISIONS\***

**47. The definition of “Gross Receipts” set forth in Section 5.04.010(D) (Definitions) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.010 Definitions.**

D. “Gross receipts” shall mean the total amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any

act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, credits, and property of any kind or nature without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" shall be the following:

1. Cash discounts allowed or taken on sales.
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as "gross receipts."
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.
4. Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit.
5. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.
6. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Administrative Services Director with the names and addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustee.
7. Cash value of sales, trades or transactions between departments or units of the same business.
8. Transactions between a partnership and its partners.
9. Receipts from services or sales in transactions between affiliated corporations. An affiliated corporation is a corporation:
  - a. Devoting a nonvoting stock of which is owned at least eighty (80) percent by such other corporation with which such transaction is had; or
  - b. Which owns at least eighty (80) percent of the voting and nonvoting stock of such other corporation; or
  - c. At least eighty (80) percent of the voting and nonvoting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which transaction is had.

10. Receipts from investments where the holder of the investment receives only interest and/or dividends.

11. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the licensee in the regular course of the licensee's business.

**48. Section 5.04.025 (Hardship) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.025 Hardship.**

In the case of financial, medical or other hardship, the Administrative Services Director may establish a payment plan allowing additional time for repayment of any tax or penalty due. A person's failure to comply with the payment plan may result in all amounts, and any penalties, immediately due and payable to the City.

The City Manager may, in his or her discretion in cases of hardship, waive the tax and/or penalty payment requirements of this chapter.

**49. Section 5.04.040 (Evidence of Doing Business) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.040 Evidence of Doing Business.**

When any person shall by use of digital media, signs, circulars, cards, telephone book, newspapers, or other format, advertise, hold out, or represent that he or she is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the City, and such person fails to deny by a sworn statement given to the Administrative Services Director that he or she is not conducting a business in the City, after being requested to do so by the Administrative Services Director, then these facts shall be considered prima facie evidence that he or she is conducting a business in the City.

**50. Section 5.04.050 (Constitutional Apportionment) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.050 Constitutional Apportionment.**

None of the license taxes provided for by this title shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the State of California.

In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he or she may apply to the Administrative Services Director for an adjustment of

the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, provide any information as the Administrative Services Director may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Administrative Services Director shall then conduct an investigation, and, after having first obtained the written approval of the City Attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. The Administrative Services Director is hereby authorized to adopt such reasonable rules and regulations as may be necessary to guide him or her in determining proper apportionment of the business license tax hereunder so as to not place an undue burden on interstate commerce or be violative of such constitutional clauses.

**51. Section 5.04.060 (Exemptions—Exempt by Federal or State Law) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.060 Exemptions—Exempt by Federal or State Law.**

Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from the payment of such taxes as are herein prescribed.

Any person claiming an exemption pursuant to this section shall file a sworn statement with the Administrative Services Director stating the facts upon which exemptions are claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this title.

The Administrative Services Director shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the City of the license tax required by this title.

The Administrative Services Director, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein. The Administrative Services Director's determination shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

**52. Section 5.04.090 (Minor's Exemptions) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.090 Minor's Exemptions.**

Any person under eighteen (18) years of age, whose annual gross receipts from any business done within the City are within the earned income threshold pursuant to Internal Revenue Service regulations, shall be exempt from the requirements of this chapter.

Within thirty (30) days of a request by the Administrative Services Director, any person claiming an exemption pursuant to this section shall submit to the Administrative Services Director documents requested by the Administrative Services Director that show the person is a minor and that the annual gross receipts from any business done within the City are within the earned income threshold set forth in the Internal Revenue Service regulations. If the Administrative Services Director determines additional evidence is necessary, the Administrative Services Director shall notify the person seeking the exemption of the date and time of a hearing regarding the exemption. After the hearing, the Administrative Services Director shall make a determination as to whether the exemption applies, and that determination shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

**53. Section 5.04.100 (Exemption for Artists and Art Exhibits) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.100 Exemption for Artists and Art Exhibits.**

A business license shall not be required of individual artists for the exhibition or display of paintings, sculpture, photographs, handmade jewelry or other fine arts. Any artist shall be exempt from the requirements of this title if the sales of his or her artwork within the City do not result in annual gross receipts in excess of four thousand nine hundred dollars (\$4,900.00), automatically adjusted annually to reflect the percentage change in the cost of doing business as measured by the Consumer Price Index and rounded to the nearest dollar.

Within thirty (30) days of a request by the Administrative Services Director, any person claiming an exemption pursuant to this section shall submit to the Administrative Services Director documents requested by the Administrative Services Director that show the person's annual gross receipts from any business done within the City are less than the amount to qualify for the exemption. If the Administrative Services Director determines additional evidence is necessary, the Administrative Services Director shall notify the person seeking the exemption of the date and time of a hearing regarding the exemption. After the hearing, the Administrative Services Director shall make a determination as to whether the exemption applies, and that determination shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

**54. Section 5.04.140 (Application for Business License) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.140 Application for Business License.**

Before any business license is issued to any person, such person shall make an application to the Administrative Services Director. Applicant must state the name of the party to whom the license is to be issued; the nature of the trade or business to be pursued; the place where such business will be conducted and such other information as may be necessary for the enforcement of the provisions of this title.

A business license application may be denied if the Administrative Services Director determines that the applicant failed to complete all portions of the license application or has failed to comply with one or more of the provisions of this chapter.

**55. Section 5.04.160 (Processing of Application) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.160 Processing of Application.**

Upon application and tender of the required license fee, the Administrative Services Director shall process the application. Applications for new businesses, or as may be deemed necessary by the Administrative Services Director, may be submitted to other departments as necessary, including the Health Officer if health and sanitation may be affected, to determine whether the business and premises to be occupied meet the requirements of applicable law.

**56. Section 5.04.170 (Issuance of License—Contents) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.170 Issuance of License—Contents.**

Upon processing the application and receipt of the appropriate license fee, the Administrative Services Director shall prepare and issue the license showing upon the face of each license the following:

- A. Name of business and location;
- B. Business license number;
- C. Type of business by code;
- D. Date of issuance;
- E. Date of expiration; and
- F. Term of license.

**57. Section 5.04.200 (Duplicate License) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.200 Duplicate License.**

The Administrative Services Director shall charge a fee as set forth by resolution of the City Council for each duplicate license issued to replace any license issued under the provisions of this title which has been lost or destroyed, upon reasonable proof thereof.

**58. Section 5.04.205 (Business Closure) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.205 Business Closure.**

Any business which has ceased operating and conducting business in this City shall inform the Administrative Services Director in writing of the date the business has ceased conducting business, and having done such, the license shall be closed and no further license taxes or penalties shall accrue. In the event of any such closure, there shall be no rebate of any portion of the tax or fee paid by such licensee and, in any application for a new license, there shall be no proration of the required tax or fee.

**59. Section 5.04.210 (License Nontransferable) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.210 License Nontransferable.**

Each license granted or issued under any provisions of this title shall authorize the licensee to transact or carry on the business therein named, at the place therein designated and at no other place and the license shall not be assignable or transferable. A change of location shall be allowed to the holder of the license upon the payment, set forth by resolution of the City Council, to the Administrative Services Director within thirty (30) days of such change taking place.

**60. Subsection (C) of Section 5.04.220 (Posting and Keeping a License) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.220 Posting and Keeping a License.**

C. Whenever identifying stickers, tags, plates or symbols have been issued for each vehicle, device, machine or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine, or other piece of equipment the identifying sticker, tag, plate or symbol which has been issued therefor at such locations as are designated by the Administrative Services Director. Such sticker, tag, plate or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use, during the period for which the sticker, tag, plate or symbol is issued.

**61. Subsection (B) of Section 5.04.230 (Payment, Term of License and Notice of Billings) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.230 Payment, Term of License and Notice of Billings.**

B. The Administrative Services Director is not required to send a notice or a bill to any business subject to the provisions of this chapter and the failure to send or receive such notice or bill shall not affect the validity of any tax or penalty due or the duty of such business to pay the required tax or penalty due.

**62. Section 5.04.260 (Penalties for Delinquency) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.260 Penalties for Delinquency.**

For failure to pay a license tax when due, unless Administrative Services Director has provided a payment plan pursuant to Section 5.04.025, the Administrative Services Director shall add a penalty of twenty-five (25) percent of said license tax on the last day of each month after the due date thereof, providing that the amount of such penalty to be added shall in no event exceed fifty (50) percent of the amount of the license tax due.

**63. Section 5.04.280 (Refunds) of the Newport Beach Municipal Code is amended to read as follows:**

**5.04.280 Refunds.**

The Administrative Services Director may refund any license fee, tax or penalty which he or she determines was erroneously collected, but no license fee, tax or penalty shall be refunded if, prior to his or her application for a license, the applicant has engaged in the business for which the license is sought.

**64. Subsections (A) and (B) of Section 5.04.290 (Enforcement—Right of Entry) of the Newport Beach Municipal Code are amended to read as follows:**

**5.04.290 Enforcement—Right of Entry.**

A. Enforcement. It shall be the duty of the Administrative Services Director to enforce each and all of the provisions of this title, and the Chief of Police shall render such assistance in its enforcement as may from time to time be required by the Administrative Services Director.

B. Right of Entry. The Administrative Services Director and any police officer or City employee whose job includes the inspection of the business license shall have the power and authority to enter, free of charge, and during regular business hours, any place of business required to be licensed and demand an exhibition of its license certificate. No person having such license certificate issued in the person's possession or under the person's control shall willfully fail to exhibit the same on demand.

**65. Section 5.04.300 (Examination of Books, Records, Witnesses, Information Confidential) of the Newport Beach Municipal Code is amended to read as follows:**

#### **5.04.300 Examination of Books, Records, Witnesses, Information Confidential.**

The Administrative Services Director, or any authorized employee, is hereby authorized to examine the books, papers and records of any person subject to this chapter, who has made the election to pay a gross receipts tax, for the purpose of verifying the accuracy of any return made, or, if no return is made, to ascertain the license fees due under this title. Every licensee or supposed licensee is hereby directed and required to furnish to the Administrative Services Director the means, facilities and opportunity for making such examination and investigation as are hereby authorized. The Administrative Services Director is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any return made, or, if no return is made, to ascertain the license fees due under this title, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such matters.

The refusal of such examination by any employer or person subject or presumed to be subject to the license fees shall be deemed a violation of this chapter and be subject to administrative citation as provided in Chapter 1.05.

All information obtained by the Administrative Services Director under this section shall be confidential, as provided in Section 5.04.310.

#### **66. Section 5.04.320 (Extension of Time) of the Newport Beach Municipal Code is amended to read as follows:**

##### **5.04.320 Extension of Time.**

In addition to all other power conferred upon him or her, the Administrative Services Director shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not to exceed thirty (30) days and, in such case, to waive any penalty that would otherwise have accrued.

#### **67. Section 5.04.330 (Appeal) of the Newport Beach Municipal Code is amended to read as follows:**

##### **5.04.330 Appeal.**

Any person aggrieved by any decision of the Administrative Services Director with respect to the issuance or refusal to issue such license may appeal to the City Manager by filing a notice of appeal with the City Clerk. The City Manager shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to such person of the time and place of the hearing by serving the notice in the manner provided in Section 1.08.080. The City Manager shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter. After the hearing, the City Manager shall make a determination, and that

determination shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

**Chapter 5.12**  
**VEHICLES FOR HIRE\***

**68. Section 5.12.030 (Application for Certificate) of the Newport Beach Municipal Code is amended to read as follows:**

**5.12.030 Application for Certificate.**

An application for a certificate shall be filed with the Administrative Services Director upon forms provided by the City. The application must be signed by the applicant and be accompanied by a fee as established by resolution of the City Council, and shall contain or be accompanied by the following information:

- A. The name and address of the applicant, and, if the same be a corporation, the names of its principal officers, or, if the same be a partnership, association or fictitious company, the names of the partners or persons comprising the association or company, with the address of each.
- B. A complete schedule of the rates proposed to be charged for each type of vehicle.
- C. A description of every vehicle which the applicant proposes to use, including trade name, motor or serial number, State license number and body style.
- D. The location of the business and the place where the applicant proposes to keep such vehicles described in this chapter while not actually engaged.
- E. The distinct color scheme, name, monogram and insignia which shall be used on each vehicle.
- F. The name of the legal and registered owner of each such vehicle.
- G. The experience of the applicant in the business or businesses for which the person is seeking a certificate or certificates.
- H. Any facts which the applicant believes would tend to prove the public convenience and necessity requiring the granting of a certificate.
- I. Such further information as the Administrative Services Director may require.

**Chapter 5.15**  
**REGULATION OF NEWPORT BEACH POLICE OFFICIAL TOW SERVICES\***

**69. Section 5.15.040 (Tow Truck Service Specifications) of the Newport Beach Municipal Code is amended to read as follows:**

#### **5.15.040 Tow Truck Service Specifications.**

The City Clerk shall be authorized to advertise for bids. Notice inviting bids shall be published in the official newspaper at least ten (10) days before the time for opening bids. Notice shall list the date, time and location for receiving sealed bids and the time at which the bids will be opened. Bids shall be submitted on forms obtained from the Administrative Services Department. The bid proposal shall be consistent with the tow truck service specifications, contain information indicating compliance with Section 5.15.100, and provide a tow rate schedule for the following:

- A. Standard tow rate;
  - 1. Light duty towing,
  - 2. Medium duty towing,
  - 3. Heavy duty towing,
- B. Dolly;
- C. Go jacks;
- D. Remove and replace drive shaft;
- E. Roll-over and winching;
- F. Hourly rate for extended service;
- G. Open after hours for releasing of vehicles;
- H. Storage rates:
  - 1. Inside: cars and trucks,
  - 2. Outside: cars and trucks,
  - 3. Motorcycle,
- I. On-site release.

**70. Subsection (K) of Section 5.15.110 (Standard Rules of Operation) of the Newport Beach Municipal Code is amended to read as follows:**

#### **5.15.110 Standard Rules of Operation.**

K. Upon request, official police towing services shall submit a report to the Chief of Police and the Administrative Services Director, which may include any of the following:

- 1. Total police impounds;
- 2. Number of times dispatched by the Police Department;

3. Number of these calls resulting in impounds;
4. Number of vehicles sold on lien sale under authority of the California Civil Code, and reporting such lien sales as per authority of the California Vehicle Code;
5. Number of vehicles sold under authority of California Civil Code Section 3073;
6. Names and addresses of buyers and description of vehicles when sold;
7. Number of calls answered which took more than one hour to handle.

**71. Subsection (B) of Section 5.15.130 (Liability Insurance) of the Newport Beach Municipal Code is amended to read as follows:**

**5.15.130 Liability Insurance.**

B. All insurance policies shall be submitted to the Risk Manager for approval prior to the provider's designation as one of the City's official police tow service providers. Satisfactory evidence that such insurance is at all times in force and effect shall be furnished to the Risk Manager and the Administrative Services Director.

**Chapter 5.90  
ESCORT SERVICE**

**72. Subsection (A) of Section 5.90.035 (Application for Employee Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**5.90.035 Application for Employee Permit.**

A. Any person desiring an employee permit shall file a written application on the required form with the Administrative Services Director who shall refer all such applications to the Chief of Police for investigation. The applicant shall accompany the application with the appropriate filing fee set by resolution of the City Council.

**73. Section 5.90.045 (Change of Business) of the Newport Beach Municipal Code is amended to read as follows:**

**5.90.045 Change of Business.**

Every escort service permit holder shall report immediately to the Chief of Police any and all changes of ownership or management of the escort service including but not limited to changes of manager or other persons principally in charge, stock holders holding more than ten percent of the stock of the corporation, officers, directors, and partners, any and all changes of name, style or designation under which the business is to be conducted, and all changes of address or telephone numbers of the escort service business. A change of location of any premises may be approved by the Chief of Police and

the Administrative Services Director provided that there is compliance with all applicable regulations of the City of Newport Beach.

**Chapter 5.95**  
**SHORT TERM LODGING PERMIT**

**74. The definition of “Finance Director” set forth in Subsection (E) of Section 5.95.010 (Definitions) of the Newport Beach Municipal Code is renamed and amended to read as follows:**

**5.95.010 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

E. “Administrative Services Director” shall mean the Administrative Services Director of the City or his or her designee.

**75. Section 5.95.030 (Application for Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.030 Application for Permit.**

An application for an annual short term lodging permit, renewal of a short term lodging permit, reinstatement of a short term lodging permit or transfer of a short term lodging permit shall be filed with the Administrative Services Director upon forms provided by the City.

A. An application for a new permit, renewal permit, the reinstatement of a permit or the transfer of a permit shall contain the following information:

1. The name, address and telephone number of the owner of the unit for which the short term lodging permit is to be issued.
2. The name, address and telephone number of the agent, if any, of the owner of the unit.
3. Evidence of a valid business license issued by the City for the separate business of operating a short term lodging unit or units.
4. The number of bedrooms in the lodging unit.
5. The gross floor area of the lodging unit.
6. The number of parking spaces available on site and a description indicating the location and size of each parking space.
7. A nuisance response plan, which sets forth the owner’s plan for handling disruptive transient users.

8. A certification that the applicant has reviewed the covenants, conditions and restrictions, if any, and a short term use is permitted at the location pursuant to the terms of the covenants, conditions and restrictions, if any.

9. Acknowledgment of receipt and inspection of a copy of all regulations pertaining to the operation of a short term lodging unit.

10. Such other information as the Administrative Services Director deems reasonably necessary to administer this chapter.

B. An application for the renewal of a short term lodging permit shall be filed within thirty (30) calendar days of the short term lodging permit's expiration, or the short term lodging permit shall be deemed abandoned.

C. An application for the reinstatement of a short term lodging permit closed by the Administrative Services Director pursuant to Section 5.95.080 shall be filed within thirty (30) calendar days of the date the permit was closed by the Administrative Services Director, or the short term lodging permit shall be deemed abandoned.

D. An application for the reinstatement of a previously suspended short term lodging permit shall be filed within thirty (30) calendar days of the end of the suspension period, or the short term lodging permit shall be deemed abandoned.

E. If any application is deemed incomplete, which shall be determined in the sole discretion of the Administrative Services Director, the application shall be completed within thirty (30) calendar days of the service of notice that the application is incomplete, which shall be served in accordance with Section 1.08.080, or the application and any associated permit shall be deemed abandoned.

F. If good causes exist, as determined in the sole discretion of the Administrative Services Director, the Administrative Services Director may extend the deadlines set forth in subsections (B) through (E) of this section.

G. For purposes of calculating the maximum number of permits under Section 5.95.042, a short term lodging permit shall be deemed valid until the applicable permit has been deemed abandoned.

**76. Section 5.95.035 (Denial of Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.035 Denial of Permit.**

If permits are available for issuance, no timely application filed by an owner for an annual permit, renewal of a permit, reinstatement of a permit or transfer of a permit for a unit eligible to be used as a short term lodging unit, as provided for in Section 5.95.015 and this Code, shall be denied unless: the owner does not have a current valid business

license; the owner has failed to pay transient occupancy tax, the visitor service fee, a penalty, a fine or inspection cost, due and owing to the City; the nuisance response plan is deemed inadequate by the Administrative Services Director; or the short term lodging permit for the same unit and issued to the same owner has been revoked.

**77. Subsection (D) of Section 5.95.042 (Maximum Number of Permits) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.042 Maximum Number of Permits.**

D. If the City has issued the maximum number of permits available, the City shall maintain a waiting list. An application for placement on the waiting list shall be submitted to the Administrative Services Director, on a form approved by the Administrative Services Director, and shall be accompanied by a fee established by resolution of the City Council. In the event a short term lodging permit becomes available, the Administrative Services Director shall notify the person or persons next in order on the waiting list. The notice shall specify that applications will be accepted for ten (10) calendar days after the date of the notice, and that failure to apply within the ten (10) calendar-day period shall result in removal of the person or persons receiving notice from the waiting list. The Administrative Services Director may extend the deadline to apply if the Administrative Services Director determines that good cause has been shown to extend the deadline. Notice shall be deemed given when deposited in the United States mail, with the first-class postage prepaid, and addressed as specified by the person or persons on the waiting list. The City shall not be liable for a failure to notify any person or persons on the waiting list since placement on the list does not create any property right in any person or persons on the list nor any contractual obligation on the part of the City.

**78. Subsection (B) of Section 5.95.043 (Transfer of Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.043 Transfer of Permit.**

B. The deadlines set forth in subsection (A) of this section are established for purposes of setting deadlines for the transfer of a valid permit that has not been deemed abandoned in accordance with Sections 5.95.030(B) through (F). The deadlines set forth in subsection (A) of this section shall not extend the deadlines set forth in or in accordance with Sections 5.95.030(B) through (F). Authorization to transfer a valid short term lodging permit shall be deemed waived and the permit abandoned if an application is not filed to transfer a permit in accordance with the deadlines set forth in subsection (A) this section, unless the Administrative Services Director determines that good cause has been shown for extending the deadline.

**79. Section 5.95.045 (Conditions) of the Newport Beach Municipal Code is amended to read as follows:**

### **5.95.045 Conditions.**

A. All permits issued pursuant to this chapter are subject to the following standard conditions:

1. The owner shall prohibit a lessee of a lodging unit from renting the lodging unit to a transient user for a short term and from home-sharing.
2. The owner shall not rent a lodging unit to a transient user that is under the age of twenty-five (25).
3. The owner shall enter into a written agreement with the transient user that requires:
  - a. All persons residing in the short term lodging unit to live together as a single housekeeping unit; and
  - b. Limits the overnight occupancy of the short term lodging unit to the maximum permitted by the building code and fire code.
4. The owner shall ensure that the transient user complies with all terms of the written agreement set forth in subsection (A)(3) of this section.
5. The owner shall use best efforts to ensure that the transient user, occupants and/or guests of the short term lodging unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.
6. The owner shall, upon notification that any transient user, occupant and/or guest of his or her short term lodging unit has created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this Code or any state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly use best efforts to prevent a recurrence of such conduct by any transient user, occupant or guest.
7. The owner of the short term lodging unit shall use best efforts to ensure compliance with all the provisions of Title 6.
8. The owner of the short term lodging unit shall provide the transient user with a copy of Sections 5.95.047, 10.28.007, 10.28.010, 10.28.020, 10.58.030, and 10.66.020.
9. The owner of the short term lodging unit shall provide the transient user with a copy of the good neighbor policy created by the City and available on the City website, post a copy of the short term lodging permit and post a copy of the conditions set forth in this subsection in a conspicuous place within the unit. The notice shall be in substantial

compliance with a template created by the City, which shall be available on the City website, and contain the following:

a. The name of the local contact person(s) and phone number at which that person(s) may be reached on a twenty-four (24) hour basis. The local person(s) must be located within twenty-five (25) miles of the unit and shall respond to any call related to the unit within thirty (30) minutes;

b. The number and location of on-site parking spaces;

c. The street sweeping schedule for all public rights-of-way within three hundred (300) feet of the unit;

d. The trash collection schedule for the unit, and the Code rules and regulations concerning the timing, storage and placement of trash containers and recycling requirements;

e. Notification that no amplified sound or reproduced sound is allowed outside or audible from the property line between the hours of 10:00 p.m. and 10:00 a.m.; and

f. Notification that any transient user, occupant or guest is responsible for all activities occurring on the property and that any transient user, occupant or guest may be cited and fined for creating a disturbance or violating any provision of this Code.

10. With respect to any short term lodging unit that is located in any safety enhancement zone, the owner of the unit and any agent retained by the owner shall take immediate action during the period that the safety enhancement zone is in effect to prevent any transient user, occupant or guest from engaging in disorderly conduct or committing violations of this Code or state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs.

11. The owner shall:

a. Ensure that all transient occupancy taxes and visitor service fees are collected and remitted to the City and otherwise comply with all transient occupancy tax and visitor service fee requirements, as set forth in Chapters 3.16 and 3.28.

b. If the owner uses an agent to collect and remit the transient occupancy tax and the visitor service fee, either voluntarily or as directed by the City, the owner shall be responsible for ensuring that the agent collects and remits the transient occupancy tax and the visitor service fee to the City pursuant to the requirements set forth in this chapter and Chapters 3.16 and 3.28.

c. If the Administrative Services Director directs, in writing, a hosting platform to collect and remit the transient occupancy tax and the visitor service fee, the owner shall: (i) be responsible for ensuring that the hosting platform collects and remits the transient

occupancy tax and the visitor service fee to the City in accordance with this chapter; and (ii) when filing a return in accordance with Sections 3.16.070 and 3.28.040, the owner shall provide the City with a copy of all receipts showing the date the short term lodging unit was rented, the name of the hosting platform, the amount of transient occupancy tax and visitor service fee collected by the hosting platform, and proof that the transient occupancy tax and visitor service fee was remitted to the City.

12. The owner shall provide the City with the name and twenty-four (24) hour phone number of a local contact person(s) (who resides within twenty-five (25) miles of the property) who shall respond to contacts from the answering service, respond to any call related to the unit within thirty (30) minutes, and ensure compliance with this chapter in a timely manner. The owner or agent must provide a new local contact person and his or her phone number within five business days, if there is a change in the local contact person(s).

13. The owner shall ensure that all available parking spaces on site, which may include garage, carport, and driveway spaces as well as tandem parking, are available for the transient user, occupant or guest of the short term lodging unit. The owner shall disclose the number of parking spaces available on site and shall inform the transient user, occupant and/or guest that street parking may not be available.

14. The owner shall maintain a valid business license and short term lodging permit when engaging in short term lodging.

15. The owner shall include the City issued short term lodging permit number on all advertisements for the rental of the short term lodging unit and shall ensure the transient user is informed of the amount of the transient occupancy tax and visitor service fee prior to completion of the booking transaction.

16. The owner shall ensure that a permitted short term lodging unit is only used for residential purposes and not used for nonresidential uses, including, but not limited to, large commercial or non-commercial gatherings, commercial filming and/or nonowner wedding receptions.

17. The owner shall ensure that no amplified sound or reproduced sound is used outside or audible from the property line between the hours of 10:00 p.m. and 10:00 a.m. and that the transient user does not violate the requirements set forth in this chapter and Chapters 10.28, 10.58 and 10.66.

18. The owner shall comply with the nuisance response plan submitted with the application for a short term lodging permit and approved by the Administrative Services Director.

19. The owner shall allow the City to inspect the short term lodging unit to confirm the number of bedrooms, gross floor area, and number/availability of parking spaces, seven calendar days after the City serves the owner with a request for inspection in accordance with Section 1.08.080. If, based on the inspection, it is determined that the information submitted to the City in accordance with Section 5.95.030 was false, in addition to any other remedy set forth in this chapter, the owner agrees that the owner shall be liable for the cost of conducting the inspection.

20. The owner shall provide the City with a copy of any written rental agreement(s) and the good neighbor policy, within seven calendar days after the City serves the owner with a notice of request for written rental agreements and the good neighbor policy in accordance with Section 1.08.080.

21. Neither an owner nor the owner's agent shall rent, let, advertise for rent, or enter into an agreement for the rental of any lodging unit, for less than two consecutive nights.

22. The owner shall:

a. Require every transient user and guest of the transient user to comply with all State and local laws that regulate parking while staying at or visiting the short term lodging unit;

b. Require every transient user to provide the owner with the license plate number for all vehicles which are used by the transient user or the transient user's guest while staying at or visiting the short term lodging unit; and

c. Provide the City with the vehicle license plate number(s) for every vehicle which was used by the transient user or the transient user's guest while staying at or visiting the short term lodging, within seven calendar days after the City serves the owner with a notice of request for the vehicle license plate number(s) in accordance with Section 1.08.080.

23. The owner shall ensure that any transient user or transient user's guest complies with all State and local laws that regulate parking while the transient user or transient user's guest is staying at or visiting the short term lodging unit. For purposes of this condition, a transient user or transient user's guest shall be presumed to be staying at or visiting a short term lodging unit if a parking citation is issued to the transient user or the transient user's guest within one hundred (100) feet of the property line of the short term lodging unit during the time the transient user is renting the short term lodging unit.

B. The City Manager shall have the authority to impose additional standard conditions, applicable to all short term lodging units, as necessary to achieve the objectives of this chapter.

C. The City Manager shall have the authority to impose additional conditions on any permit in the event of any violation of the conditions to the permit or the provisions of this chapter subject to compliance with the procedures specified in Section 5.95.065.

**80.Subsection (A) of Section 5.95.050 (Agents and Hosting Platform Responsibilities) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.050 Agents and Hosting Platform Responsibilities.**

A. If directed to do so by the Administrative Services Director, in writing, agents or hosting platforms shall:

1. Collect all applicable transient occupancy taxes and visitor service fees that are imposed on the transient, pursuant to Chapters 3.16 and 3.28, from the transient, or from the person paying for such rental, at the time payment for such rental is made; and
2. Remit to the City any transient occupancy taxes or visitor service fees collected by the hosting platform or agent to the City before the last day of the month following the close of each calendar quarter or on the day specified by the Administrative Services Director if a different reporting period has been established.

Hosting platforms shall not collect or remit such taxes unless expressly authorized to do so by the Administrative Services Director, in writing. Nothing in this subsection shall be deemed to relieve an operator, as that term is defined in Sections 3.16.020 and 3.28.010, from complying with the requirements set forth in Chapters 3.16 and 3.28, or to interfere with the ability of an agent or hosting platform and an owner to enter into an agreement regarding fulfillment of the requirements of this subsection.

**81.Subsections (B) and (E) of Section 5.95.065 (Suspensions and Revocations) of the Newport Beach Municipal Code are amended to read as follows:**

**5.95.065 Suspensions and Revocations.**

B. Permits shall be suspended or revoked only in the manner provided in this section.

1. The Administrative Services Director shall investigate whenever he or she has reason to believe that an owner has submitted an application that contains false information or committed a violation of a permit condition, this Code, State or Federal law related to a permitted unit. Such investigation may include, but is not limited to, on-site property inspections. Should the investigation reveal substantial evidence to support a finding that warrants a suspension or revocation of the short term lodging permit, the Administrative Services Director shall issue written notice of intention to suspend or revoke the short term lodging permit. The written notice shall be served on the owner in accordance with Section 1.08.080, and shall specify the facts which, in the opinion of

the Administrative Services Director constitute substantial evidence to establish grounds for imposition of the suspension and/or revocation, and specify the proposed time the short term lodging permit shall be suspended and/or that the short term lodging permit shall be revoked within thirty (30) calendar days from the date the notice is given, unless the owner files with the Administrative Services Director, before the suspension or revocation becomes effective, a request for hearing before a hearing officer, who shall be retained by the City, and pays the fee for the hearing established by resolution of the City Council. Subject to subsection (E) of this section, failure to file a timely request for a hearing and pay all applicable fees shall result in the suspension or revocation of the permit.

2. If the owner requests a hearing and pays the hearing fee, established by resolution of the City Council, within the time specified in subsection (B)(1) of this section, the Administrative Services Director shall serve written notice on the owner, pursuant to Section 1.08.080, setting forth the date, time and place for the hearing. The hearing shall be scheduled not less than fifteen (15) calendar days, nor more than sixty (60) calendar days, from the date on which notice of the hearing is served by the Administrative Services Director. The hearing shall be conducted according to the rules normally applicable to administrative hearings. At the hearing, the 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 or revoke the short term lodging permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the suspension or revocation is consistent with the provisions of this section. The City Manager shall render a decision within thirty (30) calendar days of the hearing and the decision shall be final.

E. The Administrative Services Director may extend the deadlines set forth in this section if the Administrative Services Director determines that good cause has been shown to extend the deadline.

**82. Section 5.95.080 (License and Permit Closure) of the Newport Beach Municipal Code is amended to read as follows:**

**5.95.080 License and Permit Closure.**

A. Any owner that has ceased operating a short term lodging unit shall inform the Administrative Services Director in writing of the date of the last rental, and having done such, the short term lodging permit shall be closed. The City will send a final transient occupancy tax and visitor service fee bill, which will be due and payable thirty (30) days from the date of the invoice.

B. The Administrative Services Director shall close any permit that has no short term lodging activity for a period of two consecutive years as evidenced by remitting zero

dollars (\$0.00) on the required transient occupancy tax and visitor service fee forms or has failed to return the transient occupancy and visitor service forms. After any permit closure pursuant to this subsection, the owner may reapply for reinstatement of the short term lodging permit which shall be processed in accordance with Section 5.95.030.

**Chapter 5.97**  
**SIDEWALK VENDING PROGRAM**

**83. Section 5.97.030 (Permit Required) of the Newport Beach Municipal Code is amended to read as follows:**

**5.97.030 Permit Required.**

- A. No person, either for themselves or any other person, shall engage in any sidewalk vendor activities within the City without first applying for and receiving a permit from the Administrative Services Director under this chapter.
- B. A written application for a sidewalk vendor permit shall be filed with the Administrative Services Director on a form provided by the City, and shall contain the following information:
1. The name, address, and telephone number of the person applying to become a sidewalk vendor;
  2. The name, address, and telephone number of the person who will be in charge of any roaming sidewalk vendors, sidewalk vending activity and/or be responsible for the person(s) working at the sidewalk vending receptacle;
  3. The name, address, and telephone number of all persons that will be employed as roaming sidewalk vendors or at a sidewalk vending receptacle;
  4. The number of sidewalk vending receptacles the sidewalk vendor will operate within the City under the permit;
  5. The location(s) in the City where the sidewalk vendor intends to operate;
  6. The day(s) and hours of operation the sidewalk vendor intends to operate at such location(s);
  7. Whether the vendor intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor and, if roaming, the intended path of travel;
  8. The dimensions of the sidewalk vendor's sidewalk vending receptacle(s), including a picture of each sidewalk vending receptacle operating under the permit and any signs that will be affixed thereto;
  9. Whether the sidewalk vendor will be selling food, merchandise, or both;

10. If the sidewalk vendor is selling food, a description of the type of food to be sold, whether such foods are prepared on site, whether such foods will require a heating element inside or on the sidewalk vending receptacle for food preparation, and the type of heating element, if any;
11. If the vendor is selling merchandise, a description of the merchandise to be sold;
12. A copy of the health permit required for any sidewalk vendors selling food, as required by Chapter 6.08;
13. Proof the person possesses a valid California Department of Tax and Fee Administration seller's permit which notes the City as a location or sublocation, which shall be maintained for the duration of the sidewalk vendor's permit;
14. An acknowledgment that the sidewalk vendor will comply with all other generally applicable local, State, and Federal laws;
15. A certification that, to their knowledge and belief, the information contained within the application is true;
16. An agreement to indemnify the City, as approved by the City Attorney;
17. An acknowledgement that use of public property is at the sidewalk vendor's own risk, the City does not take any steps to ensure public property is safe or conducive to the sidewalk vending activities, and the sidewalk vendor uses public property at their own risk;
18. An acknowledgement that the sidewalk vendor will obtain and maintain throughout the duration of any permit issued under this chapter any insurance required by the Risk Manager;
19. If the sidewalk vendor has operated in the City in the past, proof of prior sales tax allocation to the City; and
20. Any other relevant information required by the Administrative Services Director.

C. Each application for a sidewalk vendor permit shall be accompanied by a nonrefundable application fee as established by resolution of the City Council. The application and permit is only applicable to the individual(s) named on the application. If said permit is approved, it shall not be necessary for the permittee to obtain a City business license to carry on the activities authorized by said permit, unless such permittee maintains a permanent place of business within the City.

**84. Section 5.97.040 (Issuance of Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**5.97.040 Issuance of Permit.**

A. Within thirty (30) days of receiving a complete application, the Administrative Services Director may issue a sidewalk vendor permit, with appropriate conditions, as provided for herein, if he or she finds based on all of the relevant information that:

1. The conduct of the sidewalk vendor will not unduly interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or rights of nearby residents to the quiet and peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;
2. The conduct of the sidewalk vendor will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the vendor;
3. The conduct of such sidewalk vending activity will not constitute a fire hazard, and all proper safety precautions will be taken;
4. The conduct of such sidewalk vending activity will not require the diversion of police officers to properly police the area of such activity as to interfere with normal police protection for other areas of the City;
5. The sidewalk vendor has paid all previous administrative fines, completed all community service, and completed any other alternative disposition associated in any way with a previous violation of this chapter;
6. The sidewalk vendor has not had a permit revoked within the past twelve (12) months;
7. The sidewalk vendor's application contains all required information;
8. The sidewalk vendor has not made a materially false, misleading or fraudulent statement of fact to the City in the application process;
9. The sidewalk vendor has satisfied all the requirements of this chapter;
10. The sidewalk vendor has paid all applicable fees as set by City Council resolution;
11. The sidewalk vendor's sidewalk vending receptacle and proposed activities conform to the requirements of this chapter;
12. The sidewalk vendor has adequate insurance coverage to protect the City from liability associated with the sidewalk vendor's activities, as determined by the Risk Manager; and
13. The sidewalk vendor has satisfactorily provided all information requested by the Administrative Services Director to consider the vendor's application.

B. A sidewalk vendor permit is nontransferable. Any change in ownership or operation of a sidewalk vendor or sidewalk vending receptacle requires a new permit under this chapter.

C. All permits issued under this chapter shall expire twelve (12) months from date of issuance.

**85. Subsections (B) and (D) of Section 5.97.070 (Penalties) of the Newport Beach Municipal Code are amended to read as follows:**

**5.97.070 Penalties.**

B. If a sidewalk vendor violates any portion of this chapter and cannot present the citing officer with a proof of a valid permit, the sidewalk vendor shall be assessed administrative fines in the following amounts:

1. An administrative fine not exceeding two hundred fifty dollars (\$250.00) for a first violation;
2. An administrative fine not exceeding five hundred dollars (\$500.00) for a second violation within one year of the first violation;
3. An administrative fine not exceeding one thousand dollars (\$1,000.00) for each additional violation within one year of the first violation;

D. The Administrative Services Director may revoke a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations within one year of the first violation.

**86. Section 5.97.080 (Appeals) of the Newport Beach Municipal Code is amended to read as follows:**

**5.97.080 Appeals.**

A. Administrative citations shall be appealed in the following manner:

1. Any recipient of an administrative citation may request an ability-to-pay determination, contest that there was a violation of this Code, and/or that he or she is the responsible person, by completing a request for hearing form and returning to the City's Administrative Services Department in accordance with Section 1.05.060(A). Notwithstanding the time limits set forth in Section 1.05.060(A), any person requesting a hearing and ability-to-pay determination may file the request within the time frames set forth in California Government Code Section 51039(f)(1).
2. Any recipient of an administrative citation may file for a hardship waiver in accordance with Section 1.05.060(B), or any successor section;

3. All appeals of administrative citations shall be heard by a Hearing Officer designated pursuant to Section 1.05.070(A), or any successor section, and the Hearing Officer may be disqualified as provided in Section 1.05.070(B), or any successor section;
4. In addition to the powers set forth in Section 1.05.070(C)(1) through (4) and (6) through (7), or any successor section, the Hearing Officer shall have the power to:
  - a. Reduce the fine based upon the person's ability to pay the fine;
  - b. If the Hearing Officer finds the person meets the criteria described in California Government Code Section 68632(a) or (b), the Hearing Officer shall order the City to accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this chapter;
  - c. The Hearing Officer may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition;
5. All appeals of administrative citations shall be conducted in accordance with Section 1.05.080, or any successor section;
6. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision within ten (10) days of the hearing and shall list in the decision the reasons for that decision:
  - a. The Hearing Officer may uphold or deny the administrative citation or take any other action within the Hearing Officer's power;
  - b. If the Hearing Officer determines that the administrative citation should be upheld and a fine assessed, then the amount of the fine assessed that is on deposit with the City shall be retained by the City and any remainder on deposit with the City, if any, shall be promptly returned;
  - c. If the Hearing Officer determines that the administrative citation should be denied, or imposes an alternative disposition, and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine;
  - d. The decision of the Hearing Officer shall be final as to the City but subject to judicial review pursuant to California Government Code Section 53069.4; and
  - e. The recipient of the administrative citation shall be served with a copy of the Hearing Officer's written decision in the manner provided in Section 1.08.080.
- B. Decisions of the Administrative Services Director to revoke a permit shall be appealed in the following manner:

1. Appeals shall be initiated within fifteen (15) days of service of notice of the decision in the manner provided in Section 1.08.080;
2. Appeals of decisions shall be made in writing on forms provided by the City;
3. Decisions that are appealed shall not become effective until the appeal is resolved;
4. All appeals of decisions shall be heard by a Hearing Officer designated pursuant to Section 1.05.070(A), and the Hearing Officer may be disqualified as provided in Section 1.05.070(B);
5. The Hearing Officer shall have the powers set forth in Sections 1.05.070(C)(1) through (4) and (6);
6. A hearing before the Hearing Officer may be set for a date that is not less than fifteen (15) and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The responsible person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing. The City and responsible person may mutually agree to waive, modify or change the date of the proceeding;
7. All appeals of decisions shall be conducted in accordance with Sections 1.05.080(B), (D), (F), and (G), and shall comply with the following additional procedures:
  - a. At least ten (10) days prior to the hearing, the responsible person requesting the hearing shall be provided with copies of the citations, reports and other documents or evidence submitted or relied upon by the Administrative Services Director;
  - b. No other discovery is permitted. Formal rules of evidence shall not apply. Administrative hearings are intended to be informal in nature. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules, which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State. Irrelevant and unduly repetitious evidence shall be excluded;
  - c. The failure of any responsible person who has filed an appeal to appear at the hearing shall constitute a failure to exhaust their administrative remedies;
8. After considering all the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision within ten (10) days of the hearing and shall list in the decision the reasons for that decision:
  - a. The Hearing Officer may uphold or deny the decision and the decision of the Hearing Officer shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5; and

b. The responsible person who has filed an appeal shall be served with a copy of the Hearing Officer's written decision, by the City Clerk, in the manner provided in Section 1.08.080.

## **Title 6**

### **HEALTH AND SANITATION**

#### **Chapter 6.04**

#### **GARBAGE, REFUSE AND CUTTINGS**

**87. Subsection (E)(3) of Section 6.04.060 (Collection of Solid Waste and Divertible Materials) of the Newport Beach Municipal Code is amended to read as follows:**

3. The immediate removal by any person of solid waste, food scraps, and other divertible material which the Health Officer, Code Enforcement Supervisor, City Manager, Fire Chief, Building Official, Municipal Operations Director, or their agents have determined to constitute a nuisance or an immediate threat to the public health, safety and welfare;

**88. Section 6.04.160 (Public Solid Waste and Public Recyclable Material Containers) of the Newport Beach Municipal Code is amended to read as follows:**

**6.04.160 Public Solid Waste and Public Recyclable Material Containers.**

The City Manager or designated representative shall procure, place and maintain at suitable places on certain business sidewalks, the public beaches, piers and bay and ocean front street ends a sufficient number of public solid waste and public recyclable material containers to receive and hold solid waste and divertible material generated by the general public at those locations. The Municipal Operations Director shall at all times keep public solid waste and public recyclable material containers in a clean and slightly condition and in good order and repair; provided, that the failure of the Municipal Operations Director to furnish and provide such containers shall not be held or construed to relieve any person from the penalties of this code.

**89. Section 6.04.190 (Tampering with Public Solid Waste or Public Recyclable Material Containers) of the Newport Beach Municipal Code is amended to read as follows:**

**6.04.190 Tampering with Public Solid Waste or Public Recyclable Material Containers.**

No person shall remove, without lawful authority, any public solid waste or public recyclable material container from the place where it is placed and maintained by the Municipal Operations Director, or willfully deface, injure, damage or destroy, or use any

public solid waste container or public recyclable material container for any purpose other than the authorized placing of solid waste or divertible material therein by the general public.

**90. Subsection (B) of Section 6.04.200 (Prohibited Disposal) of the Newport Beach Municipal Code is amended to read as follows:**

**6.04.200 Prohibited Disposal.**

B. On Own Property. No owner of real property shall throw, deposit or leave, or knowingly permit another to throw, deposit or leave, solid waste or divertible material on such real property, nor shall he or she fail, neglect or refuse to wholly remove solid waste or divertible material from such real property, within three days after receipt of written notice by the Code Enforcement Supervisor or Municipal Operations Director to do so.

**Chapter 6.06**

**STATE MANDATED MUNICIPAL SOLID WASTE DIVERSION PROGRAMS**

**91. The definition of "Director" as set forth in Section 6.06.010 (Definitions) of the Newport Beach Municipal Code is amended to read as follows:**

**6.06.010 Definitions.**

"Director" means the Director of the Municipal Operations Department.

**92. Subsection (A)(1) of Section 6.06.150 (Enforcement) of the Newport Beach Municipal Code is amended to read as follows:**

**6.06.150 Enforcement.**

A. Process for Enforcement.

1. The Municipal Operations Director will monitor compliance with this chapter randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program. Section 6.06.080 establishes the City's right to conduct inspections and investigations.

**Title 7**

**ANIMALS**

**Chapter 7.04**

**DOGS\***

**93. Subsection (G) of Section 7.04.070 (Vaccinations) of the Newport Beach Municipal Code is amended to read as follows:**

**7.04.070 Vaccinations.**

G. Duties of Health Department. In furtherance of the program of the City for vaccination of dogs against rabies, the Orange County Health Department is authorized to:

1. Approve of such vaccine or vaccines as it may find suitable for such use, promulgate its findings and approval, and file a statement of such findings and approval in the office of the City Administrative Services Department as a public record.
2. Change such findings and approval when as a result of experience, research, practice or tests it finds that a new or different vaccine or vaccines are suitable for such use, and file a statement of such findings and approval in the office of the City Administrative Services Department as a public record.
3. Prescribe the form of certificate to be used by duly licensed veterinarians under the provisions hereof and to distribute such form of certificate to duly licensed veterinarians practicing in this City upon request.

**Title 10**  
**OFFENSES AND NUISANCES\***

**Chapter 10.08**

**USE OF PUBLIC PROPERTY AND INTERFERENCE WITH PUBLIC ACCESS\***

**94. Subsection (E) of Section 10.08.030 (Use of Public Property for Commercial Purposes) of the Newport Beach Municipal Code is amended to read as follows:**

**10.08.030 Use of Public Property for Commercial Purposes.**

E. If any person violates this section, the City may impound the person's equipment, goods, materials, merchandise and property. The City may also impound these items if it reasonably appears a person abandoned these items on public property.

1. The impoundment may be done by any City employee authorized to enforce this section.
  - a. At the time of impoundment from a person, the City employee shall issue a receipt to the person that includes the date and time of the impoundment, a description of the items seized, instructions on how to reclaim the impounded items, and the process to appeal the impoundment.
  - b. The City may immediately dispose of impounded goods or materials that cannot be safely stored or that are perishable.
  - c. The person may recover the impounded items after thirty (30) days if the person pays an impound fee, if any, along with showing proper proof of ownership.

d. If the items are not reclaimed after sixty (60) days from impoundment, the impounded items will be deemed abandoned and forfeited to the City. The abandoned items may be disposed of at the City's sole discretion.

e. The City Council may by resolution adopt impound fees, which shall reflect the City's enforcement, investigation, storage, and impound costs.

2. Any person who has equipment, goods, materials, merchandise or property impounded under this section shall have the right to file a request for an administrative hearing to appeal the impoundment.

a. An appeal shall be filed with the City's Administrative Services Department, in writing, on forms provided by the Department within ten (10) days from the date of impoundment.

b. The provisions related to Hearing Officers set forth in Section 1.05.070 shall apply. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing. After considering all the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision within ten (10) days of the hearing. If the person's appeal is upheld, the person shall have any items that were not disposed of in accordance with subsection (E)(1)(b) of this section returned to the person, and the person shall not be required to pay any impound fee.

c. The person who has filed an appeal shall be served with a copy of the Hearing Officer's written decision in the manner prescribed by Section 1.08.080. The decision of the Hearing Officer shall be final as to the City and take effect on the date it is signed by the Hearing Officer. The Hearing Officer's decision shall be subject to judicial review pursuant to Cal. Code Civ. Proc. Section 1094.5.

### **Chapter 10.32**

### **SOUND-AMPLIFYING EQUIPMENT\***

**95. Section 10.32.020 (Permit Required) of the Newport Beach Municipal Code is amended to read as follows:**

#### **10.32.020 Permit Required.**

No person shall use or cause to be used any sound-amplifying equipment or sound truck with its sound-amplifying equipment in the City without first having applied for and obtained a permit from the Administrative Services Director as provided in this chapter.

**96. The introductory paragraph of Section 10.32.030 (Application for Permit) of the Newport Beach Municipal Code is amended to read as follows:**

#### **10.32.030 Application for Permit.**

Applications for permits for the use of sound-amplifying equipment or sound trucks shall be filed with the Administrative Services Department on forms supplied by the City. The application shall contain the following information:

**97. Section 10.32.040 (Issuance of Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**10.32.040 Issuance of Permit.**

A. Upon receiving a complete application for a permit for the use of sound-amplifying equipment or a sound truck, the Administrative Services Director shall conduct an investigation within ten (10) days of receipt of a complete application to determine whether to approve the application. Unless the application is denied pursuant to subsection (B) of this section, the Administrative Services Director shall approve or conditionally approve the application for a permit if it is determined that all the requirements of this chapter are met and if it appears from the information contained in the application and such additional information as may be presented to the Administrative Services Director that the proposed use of the sound-amplifying equipment or sound truck complies with the regulations contained in Section 10.32.060. The permit shall be nontransferable and valid for a period not to exceed six months.

B. Denial of Application. An application for a permit for the use of sound-amplifying equipment or a sound truck may be denied under any of the following circumstances:

1. The City has revoked a permit obtained by the applicant pursuant to Section 10.32.080 within eighteen (18) months of the date of the application for a permit under this chapter;

2. The applicant has received a citation for violating Chapter 10.28, this chapter or Chapter 10.66 within eighteen (18) months of the date of the application for a permit under this chapter; or

3. The City has issued a citation under Chapter 10.28, this chapter or Chapter 10.66 to the address or location where the sound-amplifying equipment or sound truck is sought to be used by the applicant within eighteen (18) months of the date of the application for a permit under this chapter.

C. Specification of Hours. If a permit is granted, the Administrative Services Director shall specify the hours during which the sound-amplifying equipment or sound truck may be used after considering the needs of the applicant, the area or areas in which the sound will be emitted, and the effects of such use on the public's health, safety and welfare.

D. Appeals. Actions by the Administrative Services Director may be appealed by any interested party to the City Manager by filing a written statement with the City Clerk setting forth the facts and circumstances regarding the action by the Administrative Services

Director. The City Manager shall notify the appellant and applicant in writing of the time and place of the hearing on the appeal. The hearing on appeal shall be heard and determined by the City Manager within ten (10) days of receipt of a written appeal. 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.

**98. Section 10.32.080 (Revocation of Permit) of the Newport Beach Municipal Code is amended to read as follows:**

**10.32.080 Revocation of Permit.**

A. The Administrative Services Director may revoke any permit issued pursuant to this chapter on any of the following grounds:

1. The sound-amplifying equipment or sound truck has been used contrary to the regulations contained in Section 10.32.060 or the terms of the permit;
2. The applicant has made a misrepresentation of a material fact in the application;
3. The use of the sound-amplifying equipment or sound truck results in traffic congestion, or threatens public traffic safety.

B. Notice of the revocation shall be given to the permit holder in writing. If the notice is personally served upon the permit holder, it shall be effective immediately upon service. If the notice of revocation is delivered by mailing, it shall be effective on the third day following the deposit of the notice in the United States mail. The permit holder may appeal the action of the Administrative Services Director to the City Manager by filing a notice of appeal with the City Clerk within ten (10) days after the effective date of the revocation. If a notice of appeal is not filed within the ten (10) day period, the revocation shall become final.

**Chapter 10.58**

**POLICE SERVICES AT LARGE PARTIES, GATHERINGS OR EVENTS ON PRIVATE PROPERTY**

**99. Subsection (A) of Section 10.58.040 (Procedures for Imposition of Civil Fines) of the Newport Beach Municipal Code is amended to read as follows:**

**10.58.040 Procedures for Imposition of Civil Fines.**

Civil fines for special security assignments, as authorized by Section 10.58.030(B), shall be imposed, in the manner provided in this section.

A. For all violations of Section 10.58.030 where substantial evidence in support of a violation exists, and a special security assignment occurs, the Administrative Services Director shall issue written notice of civil fines imposed in accordance with the resolution

of the City Council. The written notice shall be served on the person responsible for the party and the owner, if different. The notice shall specify the facts which, in the opinion of the Administrative Services Director, constitute substantial evidence to establish grounds for imposition of the fines, and specify that the fines are effective thirty (30) days from the date the notice is given unless an appeal is filed in writing before the fine becomes effective.

## **Chapter 10.66 LOUD AND UNRULY GATHERINGS**

**100. Subsections (F) and (G) of Section 10.66.060 (Violation—Penalty—Civil Fine) of the Newport Beach Municipal Code are amended to read as follows:**

### **10.66.060 Violation—Penalty—Civil Fine.**

F. All civil fines imposed under this chapter shall be due and payable to the City's Administrative Services Department within the earlier of thirty (30) days from the issuance of a citation or service of the notice of violation.

G. Any owner or responsible person who intends to request an administrative hearing pursuant to Section 10.66.070 may request an advance deposit hardship waiver pursuant to Section 1.05.060(B). An owner or responsible person who is unable to pay all or a part of the civil fine due to the person's actual financial inability may file a written request for a civil fine waiver with the Administrative Services Director within fifteen (15) days from the date of service of the citation or notice, whichever is earlier. The failure of any owner or responsible person to timely file a written request for a civil fine waiver with the Administrative Services Director shall be deemed a failure to exhaust the owner's or responsible person's administrative remedies with regard to the same.

1. The written request for a civil fine waiver shall be in writing and describe with particularity the owner's or responsible person's actual financial inability demonstrating why all or a part of the fine should be waived. Further, the written request for a civil fine waiver must be accompanied by a sworn affidavit and demonstrate to the satisfaction of the Administrative Services Director the owner's or responsible person's actual financial inability that necessitates a waiver of all or a part of the civil fine amount. The Administrative Services Director is entitled to request additional documentation and information from the owner or responsible person in order to fully assess the owner's or responsible person's actual financial inability. The failure of any owner or responsible person to timely submit all requested additional documentation and information to the Administrative Services Director as requested shall be deemed a failure to exhaust the owner's or responsible person's administrative remedies with regard to the same.

2. Once a complete written request for a civil fine waiver is filed with the Administrative Services Director the requirement to pay the civil fine shall be stayed until the Administrative Services Director determines whether to grant or deny the request.
3. If the Administrative Services Director grants the written request for a civil fine waiver, the owner or responsible person shall not be required to pay the civil fine. If the Administrative Services Director determines that the owner or responsible person has the financial ability to pay all or a part of the civil fine on a reasonable payment plan, the Administrative Services Director shall so notify the owner or responsible person and the owner or responsible person shall execute any agreements required by the Administrative Services Director to establish the payment plan.
4. The granting of any request for a civil fine waiver or payment plan shall not excuse or discharge any continuation or repeated occurrence of any violation of this chapter, nor shall it bar further enforcement action by the City.
5. If the Administrative Services Director denies the written request for a civil fine waiver the civil fine must be paid within ten (10) days from the date of service of the Administrative Services Director's determination.
6. The Administrative Services Director's determination shall be (a) made within fifteen (15) days of the date of receipt of the complete request or any additional information as requested by the Administrative Services Director; (b) in writing; and (c) served either by personal delivery on the owner or responsible person or by deposit in the mail for delivery by the United States Postal Service, in a sealed envelope, postage prepaid, addressed to such owner or responsible person. The decision of the Administrative Services Director shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

**101. Subsection (A) of Section 10.66.070 (Administrative Hearing, Appeal) of the Newport Beach Municipal Code is amended to read as follows:**

**10.66.070 Administrative Hearing, Appeal.**

A. Any owner or responsible person who, pursuant to this chapter, is (1) subject to a civil fine; or (2) has had their residential unit posted with a notice concerning a loud or unruly gathering, shall have the right to file a request for an administrative hearing to appeal the imposition of the civil fine and/or the posting of the premises. Any such request shall be submitted to the City's Administrative Services Department in writing on the form required by the City within thirty (30) days from the date of service of the citation, notice of violation or posting of the premises, whichever is earlier. The written request for an administrative hearing shall be submitted to the City with an advance deposit of the civil fine unless a request for a civil fine waiver or an advance deposit hardship waiver has been filed pursuant to Sections 10.66.060(G) and 1.05.060(B). No administrative hearing

before a Hearing Officer shall be held unless and until a request for hearing form has been completed and submitted, and the fine has been deposited in advance or an advance deposit hardship waiver has been issued.

**Title 12  
VEHICLES AND TRAFFIC\***

**Chapter 12.63  
SOLID WASTE MANAGEMENT\***

**102. Section 12.63.020 (Definitions) of the Newport Beach Municipal Code is amended to add the definition of "Director" to read as follows:**

**12.63.020 Definitions.**

"Director" shall mean the Director of the Municipal Operations Department.

**103. Section 12.63.050 (Applications for Franchise) of the Newport Beach Municipal Code is amended to read as follows:**

**12.63.050 Application for Franchise.**

A. Required Forms. An application for a franchise shall be filed in the office of the Municipal Operations Department in writing on forms prescribed by the Municipal Operations Director.

B. Required Information and Materials. The application for a franchise shall contain the following information and materials:

1. The name and address of the applicant;
2. If the applicant is a partnership, the name and address of each partner shall be set forth in the application. If the applicant is a corporation, the application shall state the names and addresses of the corporation's directors, date and place of incorporation, main offices, major stockholders and associates, and the names and addresses of the parent and subsidiary companies;
3. A list of all vehicles, including license plate numbers and vehicle identification numbers, to be used in connection with the commercial solid waste handling services;
4. Evidence that the applicant has or can provide all required insurance and affirmation of indemnification;
5. Evidence that the applicant maintains books of account, income statements, tonnage reports and supporting documents and all other documents that relate in any way to

commercial solid waste handling services or the conduct of a solid waste enterprise in a manner acceptable to the City;

6. A report of solid waste handling activities for the prior calendar year to include tonnage collected by activity, as specified by City, and the corresponding revenue for each activity; the tonnage recycled or caused to be recycled by the applicant's collection, transportation, and/or disposition of materials collected and categorized by method of recycling, material type recycled, and the tonnage disposed by facility utilized;

7. Such further information as the Municipal Operations Director may reasonably require to evaluate and process the application.

C. Verification. Application for a franchise shall be verified and signed by a person or persons authorized to execute documents on behalf of the entity.

D. Fees. Applications for a franchise shall be accompanied by a fee as established by resolution of the City Council.

E. Waivers. The Municipal Operations Director may waive the submission of items deemed unnecessary.

**104. Section 12.63.060 (Municipal Operations Department Review) of the Newport Beach Municipal Code is amended to read as follows:**

**12.63.060 Municipal Operations Department Review.**

A. Time Limits and Notification. Within thirty (30) calendar days of the filing of an application, the Municipal Operations Department shall determine whether the application is complete and notify the applicant in writing if the application is determined to be incomplete.

B. Incomplete Applications. If the application is determined not to be complete, the Municipal Operations Department shall notify the applicant in writing and shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information or materials needed to complete the application. Upon the receipt of the information or materials needed to complete the application, or any resubmittal of the application, a new thirty (30) day review period shall begin to determine the completeness of the application.

C. Extension of Time Limits. Extensions of the time limits of the review period are permitted when mutually agreed upon by the Municipal Operations Department and the applicant.

**105. Section 12.63.070 (Processing the Application) of the Newport Beach Municipal Code is amended to read as follows:**

### **12.63.070 Processing the Application.**

Upon receiving an application that contains all of the information described in this chapter which is both complete and in a form acceptable to the Municipal Operations Director, the Municipal Operations Director shall process the application in accordance with the provisions of this chapter and Article XIII of the City Charter for consideration by the City Council.

### **106. Subsection (C) of Section 12.63.090 (Franchise Fees and Environmental Liability Fund Fees) of the Newport Beach Municipal Code is amended to read as follows:**

#### **12.63.090 Franchise Fees and Environmental Liability Fund Fees.**

C. Franchise fees and environmental liability fund fees shall be due and payable on the thirtieth (30th) day of the month following the end of each quarter. The franchisee shall pay the required fees to the City and deliver the payment to the City's Administrative Services Director. Each payment shall be accompanied by a written statement, verified by the franchisee or a duly authorized representative of the franchisee, showing in such form and detail as the Administrative Services Director may prescribe, the calculation of the fees payable by the franchisee and such other information as may be required as material to a determination of the amount due.

### **107. Section 12.63.130 (City Inspection Authority) of the Newport Beach Municipal Code is amended to read as follows:**

#### **12.63.130 City Inspection Authority.**

Any franchisee providing commercial solid waste handling services or conducting a solid waste enterprise in the City shall keep and maintain books of account, income statements, tonnage reports and supporting documents and all other documents that relate in any way to business transactions conducted by the person in the City for a period of three years after said service was provided and shall make these records and documents available to the City upon request by the City Manager, Municipal Operations Director or Administrative Services Director.

### **108. Subsection (B) of Section 12.63.140 (Termination) of the Newport Beach Municipal Code is amended to read as follows:**

#### **12.63.140 Termination.**

B. A notice of intent to terminate a nonexclusive franchise shall be personally delivered or mailed, at the discretion of the Municipal Operations Director, to the franchisee at the franchisee's address of record, shall state grounds for suspension or termination and shall give the franchisee notice of the time, date and place of a hearing before the City Council,

which shall be convened not less than fifteen (15) days and no more than sixty (60) days after the date of notice, subject to continuance with the consent of the parties.

**Chapter 12.68**  
**RESIDENTS' PREFERENTIAL PARKING**

**109. Subsections (A) and (B) of Section 12.68.040 (Preferential Parking Privileges—Issuance of Permits) of the Newport Beach Municipal Code are amended to read as follows:**

**12.68.040 Preferential Parking Privileges—Issuance of Permits.**

A. Issuing Authority. The Administrative Services Director shall issue permits for preferential parking. Applicants for such permits may be required to present such proof as may be required by the Administrative Services Director of residence adjacent to the area designated as a preferential parking zone. Any combination of permanent and visitor permits, up to a total of three per unit, shall be issued for each qualified dwelling unit to any qualified applicant.

B. Fees. The Administrative Services Director shall collect a fee set forth by resolution of the City Council for each permit issued pursuant to this section, whether permanent or visitor.

**Title 13**  
**STREETS, SIDEWALKS AND PUBLIC PROPERTY**

**Chapter 13.05**  
**STREET IMPROVEMENTS AND DEDICATIONS**

**110. Subsection (B) of Section 13.05.060 (Improvement Procedure) of the Newport Beach Municipal Code is amended to read as follows:**

**13.05.060 Improvement Procedure.**

B. Cash money deposited with the Administrative Services Director.

**Chapter 13.08**

**PLANTING\***

**111. Section 13.08.010 (Jurisdiction and Authority) of the Newport Beach Municipal Code is amended to read as follows:**

**13.08.010 Jurisdiction and Authority.**

Subject to the administrative control established by the City Charter, any applicable City Council policy, and the provisions of this chapter, the Municipal Operations Department shall exercise jurisdiction and control over the planting, maintenance, and removal of

trees, shrubs, and plants in all public areas under the control of the City, and shall have the authority and duties prescribed in this chapter.

**112. Section 13.08.020 (Official Tree List) of the Newport Beach Municipal Code is amended to read as follows:**

**13.08.020 Official Tree List.**

The City Council shall adopt an official tree list which shall set out the names of the streets in the City and the species of tree or trees that may be planted on each such street or portion thereof. The list shall be adopted by resolution and provided to the public by the Municipal Operations Department upon request.

**113. Subsection (D) of Section 13.08.050 (Prohibited Activities) of the Newport Beach Municipal Code is amended to read as follows:**

D. Attaching Electrical Apparatus. No person shall attach any electric wires or any device for holding electric wires to any tree, plant or shrub growing in any public street right-of-way or other public property under the control of the City without approval of the City Council. No person shall, without written permission from the Municipal Operations Director, trim, cut or break any part of such tree, shrub, or plant to make passage for electric wires.

**Title 14  
WATER AND SEWERS\***

**Chapter 14.12  
WATER RATES AND CHARGES\***

**114. Subsection (B) of Section 14.12.010 (Service Fees) of the Newport Beach Municipal Code is amended to read as follows:**

**14.12.010 Service Fees.**

B. The installation fee for a water service shall be the City's costs including all labor and materials. The installation fee shall be as established by the Utilities Department, and the cost shall be paid to the Administrative Services Department by the person applying for such installation before the work of connecting the main with the property is begun.

**115. Subsection (B) of Section 14.12.085 (Establishing Service) of the Newport Beach Municipal Code is amended to read as follows:**

**14.12.085 Establishing Service.**

B. An application for water service, as provided by the Revenue Division of the Administrative Services Department, shall be used for the purpose of establishing water service into a new customer's name. Property owners may enter into a continuous

service agreement which will authorize the transfer of water service into the name of the property owner upon a tenant's notice to discontinue service. Property owners shall be responsible for all water service charges at their premises. Water service will not be established in the name of a customer other than the property owner without the written authorization of the owner, or the owner's authorized representative.

**116. Section 14.12.095 (Customer Requests) of the Newport Beach Municipal Code is amended to read as follows:**

**14.12.095 Customer Requests.**

Except for the discontinuation of water service for failure to abide by the terms of an alternative payment arrangement, as provided in Section 14.12.090(A)(5), any residential customer who has initiated a complaint or requested an investigation up to the calendar day prior to scheduled date of service discontinuation, as stated in the delinquent notice required by Section 14.12.110, or who has, before discontinuance of service, made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full within the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by the City. The review shall include consideration of whether the customer shall be permitted to defer payment on the bill for thirty (30) days or participate in an alternative payment arrangement where the unpaid balance of the delinquent account is paid back monthly, over a period not to exceed twelve (12) months.

Any customer whose complaint or request for an investigation has resulted in an adverse determination by the City's Revenue Division may appeal the determination to the Administrative Services Director.

**117. Section 14.12.125 (Delinquent Water Service Restoration) of the Newport Beach Municipal Code is amended to read as follows:**

**14.12.125 Delinquent Water Service Restoration.**

A. Service that has been discontinued may not be restored until payment of all delinquent water service charges, including the restoration charge and a fine of one hundred dollars (\$100.00), have been received by the Administrative Services Department.

1. Upon payment, service shall be restored during regular or nonregular working hours.
2. The restoration charge for meter turn on during regular and nonregular work hours is identified by Council resolution.
3. For a residential customer who demonstrates that their household income is below two hundred (200) percent of the Federal poverty line, such restoration charge shall not

exceed the lesser of fifty dollars (\$50.00) or the cost of services during regular work hours; or exceed the lesser of one hundred fifty dollars (\$150.00) or the cost of services during nonregular work hours. Effective January 1st of each year, such charges shall automatically adjust annually to reflect changes in the Consumer Price Index for the preceding twelve (12) months, rounded down to the nearest dollar.

4. Regular work hours are Monday through Thursday, 7:00 a.m. to 4:30 p.m., and Friday, 7:00 a.m. to 3:30 p.m.

**118. Section 14.12.140 (Customer Request for Service Discontinuance) of the Newport Beach Municipal Code is amended to read as follows:**

**14.12.140 Customer Request for Service Discontinuance.**

A. Whenever a customer desires to discontinue service, the customer shall give not less than two working days' (forty-eight (48) hours) written notice thereof to the Revenue Division of the Administrative Services Department.

B. In accordance with such notice, the City shall read the water meter, prepare a closing statement of all unpaid bills for water furnished by the City to the customer up to that time and, unless a current continuous service agreement with the property owner is in place, shut off the water to the premises. If the customer has a deposit with the City, the Administrative Services Department will return the balance, after deducting any unpaid charges.

**Title 15**  
**BUILDINGS AND CONSTRUCTION\***  
**Chapter 15.38**  
**FAIR SHARE TRAFFIC CONTRIBUTION ORDINANCE**

**119. Section 15.38.060 (Payment of Contribution) of the Newport Beach Municipal Code is amended to read as follows:**

**15.38.060 Payment of Contribution.**

No building or grading permit or any other form of entitlement issued by the City to construct on or change the use of a building or property shall be issued, and no construction shall be commenced, for any project not exempt from this chapter unless all contributions required pursuant to this chapter have been deposited with the City Administrative Services Director.

**Title 17  
HARBOR CODE\***

**Chapter 17.05  
GENERAL PROVISIONS**

**120. Section 17.05.120 (Payment of Fees) of the Newport Beach Municipal Code is amended to read as follows:**

**17.05.120 Payment of Fees.**

A. Date of Payment. All permit fees required to be paid under this title shall be due and payable on a schedule established by the Administrative Services Director. Any permit holder who fails to pay any permit fee or renewal fee required by this title after the same is due shall be subject to late fees and charges in the amount established by resolution of the City Council in accordance with Section 3.36.040. Failure to pay the permit fee or renewal fee, plus any late fees and charges, within one hundred twenty (120) days of when the permit fee or renewal fee was due shall constitute grounds for revocation of the permit by the responsible review authority.

B. Revenue. The revenue resulting from the administration of this title shall be accounted for separately and used exclusively for the purposes authorized to be used for public trust lands.

PROPOSED