

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Randy Breault, Director of Public Works/City Engineer via City Manager

SUBJECT: Amendment to Title 18 (Marina Regulations) of the Municipal Code

DATE: September 6, 2018

City Council Goals: To develop recreational facilities and promote recreation, educational and cultural programs and passive uses related to parks. (#6)

Purpose: To revise the City's marina regulations found in the Municipal Code to allow for live aboards.

Recommendation:

Adopt Ordinance No. 629, waiving second reading, amending Title 18 of the Brisbane Municipal Code concerning "Marina Regulations".

Background:

This ordinance was introduced at the regular city Council meeting held on July 19, 2018 and was passed unanimously with no changes requested.

Fiscal Impact:

There will be some minor impact to the marina facilities maintenance schedule due to increased use by live aboards. The cost of this impact is expected to be covered in full by a "live aboard license fee" to be decided at a future meeting.

Attachments:

July 19, 2018 staff report
Ordinance No. 629



Director of Public Works/City Engineer



City Manager

City of Brisbane

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SUBJECT: Amendment to Title 18 (Marina Regulations) of the Municipal Code

DATE: July 19, 2018

City Council Goals:

To develop recreational facilities and promote recreation, educational and cultural programs and passive uses related to parks. (#6)

Purpose:

To consider revising the City's marina regulations found in the Municipal Code to allow for live aboards.

Recommendation:

1. Introduce Ordinance No. 629, waiving first reading, amending Title 18 of the Brisbane Municipal Code concerning "Marina Regulations".
2. Approve the "Rules and Regulations" that will be attached to the "Addendum to License Agreement - Live Aboard", and authorize staff to make future changes to these as approved by the City Attorney.
3. Direct staff to schedule a public hearing at a later date to establish a "Live Aboard License Fee".

Background:

In summer 2017, the City Council's Infrastructure, Utilities & Franchise Subcommittee directed staff to pursue modifications to our existing marina permit with the Bay Conservation and Development Commission (BCDC) to allow for live aboards. Staff subsequently had several conversations with BCDC staff, and submitted a permit modification request in August 2017. The modified permit allowing up to fifty-eight (58) live aboard berths was issued 5/30/18.

Staff has worked with the City Attorney's office to develop the attached ordinance, the Addendum to License Agreement - Live Aboards, and the Rules and Regulations.

Discussion:

The attached permit modification allows, but does not require, the City to permit live aboards at the Marina. As noted in page 18 et seq. of the BCDC permit, the primary purpose for liveaboards is to further recreational boating by providing enhanced security.

If Council approves the three recommended action items, the following steps remain prior to allowing live aboards at the Marina:

- A second hearing on Ordinance 629
- A public hearing on the live aboard license fee
- A Resolution approving the live aboard license fee
- Submittal of a berthing plan to BCDC showing the proposed distribution of vessels
- Submittal of the berthing agreement and rules to BCDC

Fiscal Impact:

There will be some minor impact to the marina facilities maintenance schedule due to increased use by live aboards. The cost of this impact is expected to be covered in full by a “live aboard license fee” to be decided at a future meeting.

Attachments:

Ordinance No. 629

~~“Redline” version Title 18 Chapters 18.02 and 18.10~~

~~Addendum to License Agreement~~

~~Rules and Regulations~~

~~BCDC Permit No. 1978.014.011~~

Director of Public Works/City Engineer

City Manager

ORDINANCE NO. 629

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING TITLE 18 OF THE MUNICIPAL CODE
PERTAINING TO MARINA REGULATIONS**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Chapter 18.02 “Definitions” of Title 18 of the Municipal Code is amended to read as follows:

§18.02.010 - Generally.

For the purposes of this title, certain words and terms used in this title are defined in this chapter. Words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular unless the natural construction of the wording indicates otherwise. The word "shall" is mandatory.

§18.02.012 - Berth.

“Berth” means the place in which a vessel is moored or secured.

§18.02.020 - Brisbane Marina.

"Brisbane Marina" means the area designated as such on that map so entitled, incorporated herein by reference, which map is on file in the office of the city clerk.

§18.02.040 - Harbormaster.

"Harbormaster" means the officer designated in charge of vessel movement, safety, security, and environmental issues within the Brisbane Marina, or her/his duly authorized representative.

§18.02.050 - Licensee.

“Licensee” means the person(s) in whose name a specific berth at the Brisbane Marina is assigned by the Harbormaster pursuant to a Marina License Agreement.

§18.02.060 - Live aboard.

"Live aboard" means the use or occupancy of a boat for overnight accommodations for more than three (3) nights in a seven (7) day period.

§18.02.061 - Live aboard boat and live aboard vessel

"Live aboard boat" and "live aboard vessel" is a boat or vessel that is not a transient boat, that is capable of being used for active self-propelled navigation, and that is occupied as a residence as that term is defined in California Government Code section 244.

§18.02.062 - Marina License Agreement

"Marina License Agreement" means a maritime contract for private wharfage between the City of Brisbane and the licensee

§18.02.070 - Slip

"Slip" means berth.

§18.02.080 - Vessel.

"Vessel" means every type of watercraft used or capable of being used as a means of transportation on the water.

§18.02.082 - Wharfage

"Wharfage" means the provision of berthing services for a vessel.

SECTION 2: Chapter 18.10 "Live Aboards" of Title 18 of the Municipal Code is amended as follows:

§18.10.010 - Live aboards restricted.

When live aboards are permitted by the San Francisco Bay Conservation and Development Commission, the City Council shall establish rules and regulations and the Harbormaster shall establish policies and an application for live aboard status, and an Addendum to the Marina License Agreement permitting a live aboard vessel. All live-aboard vessels shall be in compliance with all applicable requirements of BCDC Permit No. 1978.014.11 as the provisions of that permit may change from time to time, the requirements of all other regulatory authorities the provisions of this ordinance, the rules and regulations adopted by the City Council and the provisions of the Addendum to the License Agreement. The policies, rules, regulations and documents prepared by the Harbormaster pursuant to this section shall

provide for good order and discipline within the marina and shall require that prior to issuance of the live aboard addendum and at all times thereafter, the live aboard vessel be found to be in compliance with the provisions of this Title.

§18.10.020 - Appeal of denial of live aboard application.

A. An applicant may appeal to the Director of Public Works/City Engineer any decision of the Harbormaster concerning the application. The applicant must file such appeal with the city clerk not more than ten (10) days after the date on which the Harbormaster has made a final decision. The appellant may also appeal the decision of the Director of Public Works/City Engineer to the City Manager by filing a notice of appeal with the city clerk not more than ten (10) days after the date on which the Director of Public Works/City Engineer has made a final decision.

B. The appellate authority may uphold, reverse or modify the decision which is the subject of the appeal, and may refer the matter to the Director of Public Works/City Engineer or Harbormaster for such further action as may be directed by the appellate authority.

§18.10.050 - Special provisions for marine toilets.

A. All live aboard vessels shall have a numbered seal placed on the “overboard” outlet of the head’s toilet diverting valve, and shall have marine water holding tank fluorescent visual dye tablets placed in the holding tank. The placement of both of these items shall be performed under the supervision of the Harbormaster, and continued compliance with these requirements shall be subject to inspection upon a schedule deemed necessary by the Harbormaster, or upon demand.

B. Live aboard vessels shall be required to log their pumpout dates, and shall be required to present these logs to the Harbormaster upon a schedule as determined by the Harbormaster, or upon demand.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

W. Clarke Conway, Mayor

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The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2018, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

Michael Powell
