

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 BMC Title 18 (Marina Regulations)

DATE: February 7, 2019

City Council Goals:

To promote intergovernmental opportunities that enhances services and/or reduces cost of operations and services to city residents. (#10)

Purpose:

To revise the City's marina regulations found in the Brisbane Municipal Code (BMC) to disallow unpermitted "anchor-outs" and beaching of vessels in city waters.

Recommendation:

Introduce Ordinance No. 635, waiving first reading, amending Title 18 of the Brisbane Municipal Code concerning "Marina Regulations."

Background:

As shown in the attached orthodigital photo, the Brisbane city limits extend quite a distance into San Francisco Bay. Because of the extent of these limits, our authority and responsibility also extend into the bay.

Anchoring of vessels outside the marina (i.e., "anchor-out") is a scenario the Harbormaster deals with on a regular basis. Anchoring in an unprotected area is sometimes a choice made by seasoned sailors, but most of the vessels we encounter are in poor condition, and frequently not under the control of a seasoned captain. Because of the latter situation, we do frequently respond to calls from anchor outs in distress (typically in foul weather conditions that can put our personnel at risk), and we also respond to calls from both the U.S. Coast Guard and the Division of Boating & Waterways (DBW) to remove vessels that have become beached.

While DBW does provide some grant assistance under the Surrendered and Abandoned Vessel Exchange (SAVE) program, the city is required to provide a 10% match to these

funds, and all of the work of supervising the removal and destruction of the vessels (including obtaining liens and ownership of same) falls upon Marina staff.

Discussion:

We have observed an increase in the number of anchor-out vessels since the City of Sausalito imposed new restrictions on anchor-outs in Richardson Bay. Unless we choose to address the issue, the number of anchor-outs is expected to rise (and will rise even faster should an economic downturn come to be), and the burden on both our staff and our finances will increase. In January alone, we issued \$20,000 of purchase orders to remove abandoned vessels.

The proposed BMC changes will give the City and its Harbormaster the latitude to permit or restrict anchor-outs, and to take enforcement action against violators.

Fiscal Impact:

None as a result of changes proposed herein. It is expected that enforcement of the new regulations will eventually reduce the amount of funds we expend on the SAVE program, or at a minimum, stop that amount from increasing.

Measure of Success

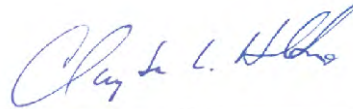
The ability to manage anchor-outs within city waters so that only seaworthy vessels with responsible captains are permitted.

Attachments:

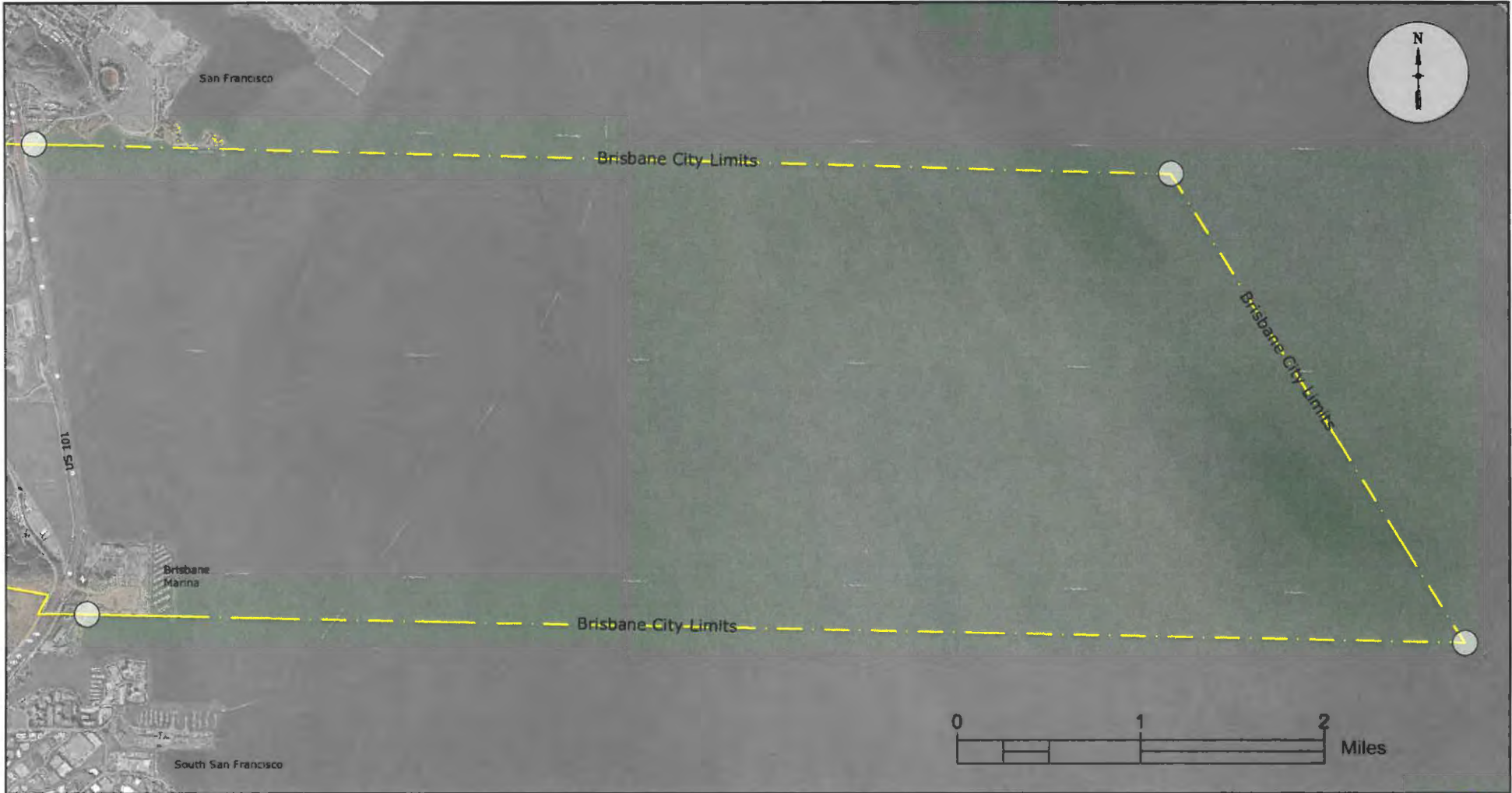
- Orthodigital showing City Limits in San Francisco Bay
- “Redline” version of Title 18 Marina Regulations
- Ordinance No. 635




Director of Public Works/City Engineer



City Manager



37.71° -122.39°	NW City Limit/Shore	37.71° -122.28°	North East City Limit	The City of Brisbane	DATE: 01/14/19	City of Brisbane Public Works Department (415)508-2130 www.brisbaneca.org 
37.67° -122.39°	SW City Limit/Shore	37.67° -122.25°	South East City Limit	City Limits East of Shore	SCALE: NA	
				This is not a record drawing.		

Red Line

- **Title 18 - MARINA REGULATIONS**
- **Chapter 18.02 - DEFINITIONS**

- **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.

- **18.02.011 - Beached.**

"Beached." means the position of a vessel shall be deemed "beached" when such vesselcraft rests on the mud or other bottom or does not float freely at ordinary low tide.

- **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.

- **18.02.030 - City waters.**

"City waters" means any and all waters within the corporate limits of the City of Brisbane and the San Francisco Bay.

- **18.02.040 - Harbormaster.**

"Harbormaster" means the officer designated in charge of vessel movement, safety, security, and environmental issues within the Brisbane Marina and City waters, 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.

- **18.02.064 - Marine debris.**

"Marine debris" shall have the same meaning as set forth in California Harbors and Navigation Code Section 550(b) or successor statute as it currently exists or may hereinafter be amended. As of the date of adoption of this Ordinancechapter, "marine debris" means "a vessel or part of a vessel, including a derelict, wreck, hulk, or part of any ship or watercraft or dilapidated vessel, that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of transportation by water.

- **18.02.066 - Moor.**

"Moor" means the fixing of a vessel in one location temporarily or permanently by mooring, anchoring, grounding or any other means.

- **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 shall have the meaning as set forth in California Harbors and Navigation Code Section 550(a) or successor statute as it currently exists or may hereafter be amended. As of the date of adoption of this Ordinancechapter, "vessel" includes "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation by water."

- **18.02.082 - Wharfage.**

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

- **Chapter 18.04 - HARBORMASTER**

Section:

- **18.04.010 - Harbormaster authority.**

A.

The harbormaster, acting under the orders and jurisdiction of the city, shall have full authority in the interpretation and enforcement of all pertinent rules and regulations, and all orders given in the performance of his duties shall be obeyed.

B.

Every vessel entering the Brisbane Marina shall immediately become subject to the authority and direction of the harbormaster.

C.

The harbormaster is responsible for the safe and smooth operations of the Brisbane Marina and may request anyone within the marina area to conform to any reasonable requests even though not written in the rules and regulations. All state and local laws are in effect within the Brisbane Marina and the harbormaster has the power to enforce them.

- **Chapter 18.06 - BERTHING**

- **18.06.010 - Applications.**

Applications for berthing space pursuant to a Brisbane Marina License Agreement shall be made to the harbormaster on the form furnished by the harbormaster. Applicants shall fully execute the license agreement after the application is approved and prior to mooring their vessel in the Brisbane Marina. Execution of a license agreement to moor a vessel within the Brisbane Marina does not include exclusive right to any particular berthing location. Vessels may be relocated within the Brisbane Marina when such relocation is required to insure public safety or is in the best interests of marina operations as determined by the harbormaster.

- **18.06.020 - Denial of applications.**

The harbormaster shall deny an applicant an original or renewal license agreement and shall deny prospective transferee or assignee a transfer or assignment of an existing license agreement if there is reasonable evidence demonstrating that the applicant is not able financially or for other reasons to perform the applicant's part of the license agreement.

- **18.06.030 - Exchange of berths.**

Licenses may exchange berths only when mutually agreeable and approved by the harbormaster in writing.

- **18.06.040 - Change of berths and waiting lists.**

Requests for changes in berthing by licensees must be in writing. If a berth is available, it may be assigned. If no assignment is made, the licensee will be put on a berth change waiting list.

- **18.06.050 - Reassignment of berths.**

A licensee who sells his vessel and purchases a replacement vessel may be reassigned to the next available appropriate berth.

- **18.06.060 - Transfer of berths upon boat sale.**

A licensee who sells the licensee's vessel shall not transfer the berth to the purchaser unless the request is in writing and approved by the harbormaster.

- **18.06.070 - Subletting.**

Subletting by licensees is not permitted and is grounds for action by the harbormaster to immediately terminate the license agreement and cause the forfeiture of any advance payments and/or future rights to a license agreement. The city retains the right to sublease berths that are temporarily vacated for periods of short duration. A licensee shall notify the harbormaster of his/her intent to temporarily vacate the berth for a period in excess of seven (7) days. A portion of all charges received from such subleasing by the city shall be credited to the permanent licensee.

- **18.06.080 - Unauthorized berth occupancy.**

Unauthorized berth occupancy is prohibited. The harbormaster is authorized to move, secure and/or impound any vessel occupying an unauthorized berth.

- **18.06.100 - Storage of rowboats and dinghies.**

Storage of row boats and dinghies, owned by licensees of berths, when not kept on board the owner's vessel, may be kept in the water at the end of the licensee's berth in such a manner that no part extends beyond the limit of the berth. Row boats and dinghies may not be stored on piers, fingers or other public property except that they may be stored in designated space provided especially for such purpose.

- **18.06.110 - Berthing rates and service charges.**

A.

Rates for service, rent and fees shall be established by resolution of the city council of the city and shall be set at rates sufficient so as to preclude the necessity of subsidization of the marina by general fund revenues.

B.

All charges are due and payable in advance and shall become delinquent on the first day of the month.

C.

Delinquent accounts shall have a late charge added thereto.

D.

Fees shall be charged for berth length or length of vessel whichever is greater except as specifically exempted by resolution of the city council.

E.

All unpaid charges will result in a lien being levied against the vessel pursuant to the California Boater's Lien Law, or a lawsuit in federal court pursuant to federal maritime lien laws, and/or referral to a collection agency.

- **18.06.120 - Nonpayment of charges.**

A.

Space assignment for which fees are sixty (60) days delinquent may be cancelled and the space relet.

B.

No person shall remove or cause to be removed from the Brisbane Marina any vessel upon which fees and charges are in arrears until said charges are paid in full or the vessel is released by the harbormaster.

C.

No person shall willfully give false information to the harbormaster or any other person in order to secure the removal of a vessel upon which charges are in arrears. The harbormaster may take any reasonable action necessary to prevent the removal of such a vessel including, but not limited to, locking the ignition or securing the vessel to its berth.

- **18.06.130 - Release of assigned facilities.**

The harbormaster shall be notified in writing at least thirty (30) days in advance of the lessee's intent to vacate an assigned space.

- **Chapter 18.08 - GENERAL REGULATIONS**

- **18.08.010 - Disposing of refuse or other matter.**

A.

No person shall throw, discharge, deposit or leave any material, liquid or solid, be it refuse, sewage, contaminated bilge water, or any waste or other matter of any description upon or into the

water, banks, walls, piers, floats or grounds within the boundaries of ~~the Brisbane Marina~~City waters.

B.

No person shall clean fish or cut bait except at specifically designated places.

C.

All vessels are required to have approved marine sanitation devices which shall be operated and maintained in compliance with federal and state laws and regulations pertaining thereto.

D.

Debris from vessel repair, oil, fish or human waste shall not be deposited in refuse receptacles.

E.

In the event of any waste discharge referenced above or in the event of an oil spill or other petroleum products entering the waters of the Brisbane Marina, the harbormaster shall be immediately notified. The harbormaster is authorized to contract for the cleanup of such spill or discharge, the cost of which is to be paid by the responsible person or vessel owner.

F.

Violation of any portion of this section is grounds for immediate termination of any license agreement and expulsion from the marina property.

- **18.08.020 - Hazardous conditions.**

A.

Any condition aboard or around a vessel, float, pier or parking area caused by a licensee, which in the opinion of the harbormaster constitutes a fire hazard, health menace or danger to public safety shall be immediately corrected.

B.

No part of any vessel including equipment thereto shall extend beyond the end of the slip or over the header float without permission of the harbormaster.

C.

Mooring lines shall be of sufficient number and strength to insure that the vessel shall be secure in the highest winds that can reasonably be expected.

D.

Use of bicycles, skateboards or similar devices on piers or floats is prohibited.

E.

Platforms used for boarding, with the approval of the harbormaster, shall not be over eighteen (18) inches wide, be of open construction and may not be used for storage.

F.

Storage on flotation shall be limited to dock boxes.

- **18.08.030 - Vessel maintenance.**

A.

Vessel maintenance work shall be limited to that ordinarily required to keep the vessel seaworthy and in good condition. Minor repairs to and routine maintenance of a vessel may be made or accomplished in the assigned berthing space, provided all work is done within the confines of the vessel and not carried on in any manner whatsoever upon the floats or piers.

B.

Spray painting is strictly prohibited.

C.

Major repairs which include, but are not limited to, construction, repair, or replacement of structural members or portions of the vessel or propulsion system, or scraping or sanding of paint are prohibited when the vessel is in an assigned space.

D.

Use of welding equipment, burning torch or other open flame apparatus requires written permission from the harbormaster.

E.

Sandblasting is strictly prohibited.

F.

All vessels are required to be maintained and in operable condition. The harbormaster may require, on ten (10) days' written notice, a demonstration of the vessel's operability. An inoperable vessel may be expelled from the harbor and the lease terminated.

G.

Always follow Brisbane Marina's best management practices, which are available at no charge in the marina office.

- **18.08.040 - Unnecessary disturbances.**

A.

The owner of the vessel is responsible for his/her crew and guests. No person shall cause loud and/or unnecessary noise which is disturbing to others.

B.

Except when on board an owner's vessel, animals shall be on a leash no longer than six (6) feet in length. No animal shall be tethered or tied to or upon public property.

C.

All engines shall be equipped with approved mufflers.

D.

As the berthing area of the Brisbane Marina is closed to the general public, no person shall use, walk or enter vessels, piers, header floats or gangways unless such person is a licensee or authorized guest. The harbormaster may authorize access to piers and header floats.

E.

Gates to the berthing area shall be locked at all times. Blocking open or climbing over gates is prohibited.

F.

Swimming, bathing, skin diving, wading and movement of vessels for purposes other than entering or leaving the harbor is prohibited within the Brisbane Marina harbor. Cruising within the harbor is prohibited.

G.

Digging for bait or other purposes and raking or disturbing the soil surface in any manner is prohibited unless such action is to perform maintenance to public property and has the written approval of the harbormaster.

• **18.08.050 - Marine debris.**

Marine debris may be removed, destroyed and disposed of in accordance with California Harbors and Navigation Code Sections 550 through 552, or successor statutes.

• **18.08.052 - Public nuisance.**

A.

Public nuisance defined. It is a public nuisance for any person owning, leasing, occupying or having charge or possession of any vessel in City waters to maintain the same in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

1. The keeping, storage, depositing, or accumulation on, or attachment to, a vessel, barge, or object for an unreasonable period of any personal property, including but not limited to abandoned, wrecked, dismantled, or inoperative vessel(s) or equipment for a vessel, engine parts and/or equipment, appliances, furniture, containers, scrap metal, wood building materials, junk, rubbish, or debris, which constitutes a serious threat to public health, and/or safety.
2. Any dangerous condition that is detrimental to the public health, safety, or welfare.
3. Discharge of refuse and/or other substances in violation of [Section BMC 18.08.010](#).

B.

Public nuisance abatement. Any public nuisance shall be abated in accordance with the provisions set forth in [BMC Chapter 8.36 of this Code](#) with the following modifications:

1. The notice required under [Sections BMC 8.36.050 and 8.36.100](#) shall be served on the registered or legal owner or any other person sought to be charged with the responsibility of abatement at his or her address as it appears on the latest Department of Motor Vehicles registration form or as known to the Harbormaster or City employee giving notice. A copy of the notice shall be posted on the vessel.
2. The term "person" as used in [BMC Chapter 8.36 of this Code](#) shall refer to the registered or legal owner or any other person sought to be charged with the responsibility of abatement.

• **18.08.054 — Limitations to Moor or Beach a Vessel**~~Ten-hour limitation.~~

Other than those vessels lawfully permitted to be within the Brisbane Marina, it is unlawful for any person to moor or beach any vessel in City waters in excess of 10 hours without first obtaining the written permission of the Harbormaster.

- **18.08.056 - Beached vessels.**

Except in an emergency and except for those vessels lawfully docked in harbor and marina facilities, it shall be unlawful for the owner or person in control or custody of any vessel to beach in City waters or upon the dike forming the southern boundary of the former Sierra Point landfill.

- **18.08.060 - Establishment and promulgation of additional rules.**

The berthing of vessels and other activities and operations of and in the Brisbane Marina not herein regulated shall be in conformance with reasonable regulations established by resolution of the city council of the city. Such regulations shall be based upon the maintenance within the marina of sanitary and sightly conditions, orderliness, the preservation of public health, safety, peace and welfare, and the convenience of the public in the use of such area for the purpose for which it is established. All licensees shall be given a copy of the ordinance codified in this title and a copy of any additional rules which may be promulgated pursuant to this section. A copy of these documents shall be posted in the harbormaster's office.

- **Chapter 18.10 - LIVE ABOARDS⁽³⁾**

- **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 chapter, 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.

- **Chapter 18.20 FISHING**

- **18.20.010 - Fishing restrictions.**

Fishing is permitted only from the pier constructed at the north end of the marina for such purpose or from vessels berthed in the marina if conducted in such a manner as to not create a hazard to navigation, a nuisance or jeopardize the water quality of the marina.

- **Chapter 18.40 SOLICITATION RESTRICTIONS**

Section:

- **18.40.010 - Solicitation.**

A.

No person shall solicit, sell, hawk or peddle dry goods, wares, merchandise, liquids or edibles for human consumption, literature, erect signs, posters or other advertising media within the Brisbane Marina without written permission of the harbormaster and without first having acquired all applicable permits and licenses from the city.

B.

No commercial activity may be conducted anywhere within the marina without the prior written approval of the harbormaster. Approved commercial activities shall possess a current City of Brisbane business license and shall provide the harbormaster proof of a general liability insurance

policy in an amount not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury, and property damage. The City of Brisbane shall be named as an additional insured on this policy.

- **Chapter 18.60 - PARKING RESTRICTIONS**

- **18.60.010 - Parking areas.**

Permission shall be obtained from the harbormaster prior to parking any vehicle, camper, trailer, or vessel in the parking areas within the Brisbane Marina for a period exceeding one hundred twenty (120) consecutive hours. Vehicles, trailers, campers, or vessels parked in excess of one hundred twenty (120) consecutive hours without permission will be cited or removed from the Brisbane Marina at owner's expense.

- **18.60.020 - Restricted areas.**

A.

Vehicles, campers, trailers or vessels parked in restricted areas, limited parking areas or in driveways will be cited or removed from the Brisbane Marina at the owner's expense.

B.

Motor-driven vehicles are prohibited on any path, sidewalk, pier, dock, float, beach or planted area.

C.

The use of any vehicle for eating or sleeping for over four (4) hours per day while parked at the Brisbane Marina is prohibited.

- **Chapter 18.80 - VESSEL REGISTRATION AND INSPECTION**

- **18.80.010 - Registration.**

Every vessel entering the Brisbane Marina shall be registered and numbered in accordance with the laws of the state or U.S. Government regulations regarding documented vessels. Vessels berthed within the marina shall maintain such current registration and provide proof of current registration to the harbormaster as follows; upon receipt of new registration (i.e., upon first registration, and then bi-annually for vessels registered with the state Department of Motor Vehicles, and annually for vessels documented with the U.S. Coast Guard), and upon demand of the harbormaster.

- **18.80.020 - Documentation and inspection.**

Owners of vessels entering the Brisbane Marina shall furnish all documents pertaining to the vessel and ownership thereof before any berthing application can be accepted. All vessels will be personally inspected by the harbormaster prior to being accepted for berthing. Failure to pass inspection shall be grounds for denying berthing.

- **Chapter 18.100 - VESSEL TRAFFIC**

- **18.100.010 - Safe operation.**

All vessels approaching or within the Brisbane Marina shall be operated in a safe and prudent manner.

- **18.100.020 - Speed.**

The speed of any vessel within the Brisbane Marina shall not exceed five (5) miles per hour or at any speed to cause a wake that may cause damage or inconvenience to anyone.

- **Chapter 18.110 - CHILDREN AND VISITORS**

- **18.110.010 - Children.**

It is prohibited for any child under the age of sixteen (16) years to go, remain or be upon any of the piers, gangways, floats or vessels in the Brisbane Marina basin unless such child is accompanied by the child's parent or other adult person or unless such child has written permission of the owner of a vessel in the marina to go on board the owner's vessel.

- **18.110.020 - Transient and guest dock visitors.**

A.

All visitors wishing berthing space in the harbor, including those boaters requesting use of the marina guest dock, shall check in with the harbormaster prior to being assigned a space. Vessels requesting guest or transient berth status shall provide proof of insurance and registration as required by the harbormaster.

B.

With approval of the harbormaster, transient visitors may stay for up to three (3) consecutive months (within a twelve (12) month period) in a transient berth where space is available. At the end of the period as approved by the harbormaster, visitors shall vacate their slip or enter into a license agreement for regular status.

C.

Every person with a vessel entering the marina is subject to the order and direction of the harbormaster, and will moor or berth the vessel only in the area designated for that vessel.

- **Chapter 18.200 - ACCIDENT REPORTS**

Section:

- **18.200.010 - Report requirements.**

In addition to any reporting requirements of state or federal governments, all boating accidents involving injury to any person or damage to any public or private property shall be reported in writing to the Harbormaster within twenty-four (24) hours of the occurrence of the incident.

- **Chapter 18.300 - PENALTIES**

- ~~**18.300.010 - Violation—Penalties.**~~

The violation of any of the provisions of this title shall constitute a misdemeanor, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this code.

- **18.300.020 - Impoundment.**

The city shall have the right and power to remove or impound the vessel of any person violating the rules and regulations or failing to pay required fees, or leaving any vessel in City waters or beached for 72 or more hours, at the sole cost and expense of the owner. The registered and legal owner of the vessel so removed and impounded shall have the right to secure the release of such vessel upon furnishing proof of ownership and payment of the costs and expense of removal, impoundment and/or storage of the vessel. In addition, the provisions of the Boater's Lien Law, currently set forth in California Harbors and Navigation Code Section 500 et seq., shall apply. Impound fees shall be established by resolution of the city council of the city. Impound fees will be assessed daily.

- **18.300.030 - Responsible parties.**

Compliance with the rules and regulations established or authorized by this title is the responsibility of vessel owners, their guests, and visitors to the Brisbane Marina.

ORDINANCE NO. 635

**AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING VARIOUS CHAPTERS OF TITLE 18
OF THE BRISBANE MUNICIPAL CODE
CONCERNING MARINA REGULATIONS**

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

SECTION 1: Chapters 18.02, 18.08 and 18.300 of Title 18 “Marina Regulations” of the Municipal Code are hereby amended to read as follows:

Chapter 18.02 - DEFINITIONS

• **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.

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"Beached" means the position of a vessel when such vessel rests on the mud or other bottom or does not float freely at ordinary low tide.

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• **18.02.020 - Brisbane Marina.**

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"Slip" means berth.

- **18.02.080 - Vessel.**

"Vessel" shall have the meaning as set forth in California Harbors and Navigation Code Section 550(a) or successor statute as it currently exists or may hereafter be amended. As of the date of adoption of this Ordinance, "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation by water.

- **18.02.082 - Wharfage.**

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

Chapter 18.08 - GENERAL REGULATIONS

- **18.08.010 - Disposing of refuse or other matter.**

A. No person shall throw, discharge, deposit or leave any material, liquid or solid, be it refuse, sewage, contaminated bilge water, or any waste or other matter of any description upon or into the water, banks, walls, piers, floats or grounds within the boundaries of City waters.

B. No person shall clean fish or cut bait except at specifically designated places.

C. All vessels are required to have approved marine sanitation devices which shall be operated and maintained in compliance with federal and state laws and regulations pertaining thereto.

D. Debris from vessel repair, oil, fish or human waste shall not be deposited in refuse receptacles.

E. In the event of any waste discharge referenced above or in the event of an oil spill or other petroleum products entering the waters of the Brisbane Marina, the harbormaster shall be immediately notified. The harbormaster is authorized to contract for the cleanup of such spill or discharge, the cost of which is to be paid by the responsible person or vessel owner.

F. Violation of any portion of this section is grounds for immediate termination of any license agreement and expulsion from the marina property.

- **18.08.020 - Hazardous conditions.**

A. Any condition aboard or around a vessel, float, pier or parking area caused by a licensee, which in the opinion of the harbormaster constitutes a fire hazard, health menace or danger to public safety shall be immediately corrected.

B. No part of any vessel including equipment thereto shall extend beyond the end of the slip or over the header float without permission of the harbormaster.

C. Mooring lines shall be of sufficient number and strength to insure that the vessel shall be secure in the highest winds that can reasonably be expected.

- D. Use of bicycles, skateboards or similar devices on piers or floats is prohibited.
- E. Platforms used for boarding, with the approval of the harbormaster, shall not be over eighteen (18) inches wide, be of open construction and may not be used for storage.
- F. Storage on flotation shall be limited to dock boxes.

- **18.08.030 - Vessel maintenance.**

- A. Vessel maintenance work shall be limited to that ordinarily required to keep the vessel seaworthy and in good condition. Minor repairs to and routine maintenance of a vessel may be made or accomplished in the assigned berthing space, provided all work is done within the confines of the vessel and not carried on in any manner whatsoever upon the floats or piers.
- B. Spray painting is strictly prohibited.
- C. Major repairs which include, but are not limited to, construction, repair, or replacement of structural members or portions of the vessel or propulsion system, or scraping or sanding of paint are prohibited when the vessel is in an assigned space.
- D. Use of welding equipment, burning torch or other open flame apparatus requires written permission from the harbormaster.
- E. Sandblasting is strictly prohibited.
- F. All vessels are required to be maintained and in operable condition. The harbormaster may require, on ten (10) days' written notice, a demonstration of the vessel's operability. An inoperable vessel may be expelled from the harbor and the lease terminated.
- G. Always follow Brisbane Marina's best management practices, which are available at no charge in the marina office.

- **18.08.040 - Unnecessary disturbances.**

- A. The owner of the vessel is responsible for his/her crew and guests. No person shall cause loud and/or unnecessary noise which is disturbing to others.
- B. Except when on board an owner's vessel, animals shall be on a leash no longer than six (6) feet in length. No animal shall be tethered or tied to or upon public property.
- C. All engines shall be equipped with approved mufflers.
- D. As the berthing area of the Brisbane Marina is closed to the general public, no person shall use, walk or enter vessels, piers, header floats or gangways unless such person is a licensee or authorized guest. The harbormaster may authorize access to piers and header floats.
- E. Gates to the berthing area shall be locked at all times. Blocking open or climbing over gates is prohibited.
- F. Swimming, bathing, skin diving, wading and movement of vessels for purposes other than entering or leaving the harbor is prohibited within the Brisbane Marina harbor. Cruising within the harbor is prohibited.
- G. Digging for bait or other purposes and raking or disturbing the soil surface in any manner is prohibited unless such action is to perform maintenance to public property and has the written approval of the harbormaster.

- **18.08.050 - Marine debris.**

Marine debris may be removed, destroyed and disposed of in accordance with California Harbors and Navigation Code Sections 550 through 552, or successor statutes.

- **18.08.052 - Public nuisance.**

A. Public nuisance defined. It is a public nuisance for any person owning, leasing, occupying or having charge or possession of any vessel in City waters to maintain the same in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

1. The keeping, storage, depositing, or accumulation on, or attachment to, a vessel, barge, or object for an unreasonable period of any personal property, including but not limited to abandoned, wrecked, dismantled, or inoperative vessel(s) or equipment for a vessel, engine parts and/or equipment, appliances, furniture, containers, scrap metal, wood building materials, junk, rubbish, or debris, which constitutes a serious threat to public health, and/or safety.
2. Any dangerous condition that is detrimental to the public health, safety, or welfare.
3. Discharge of refuse and/or other substances in violation of Section 18.08.010.

B. Public nuisance abatement. Any public nuisance shall be abated in accordance with the provisions set forth in Chapter 8.36 of this Code with the following modifications:

1. The notice required under Sections 8.36.050 and 8.36.100 shall be served on the registered or legal owner or any other person sought to be charged with the responsibility of abatement at his or her address as it appears on the latest Department of Motor Vehicles registration form or as known to the Harbormaster or City employee giving notice. A copy of the notice shall be posted on the vessel.
2. The term “person” as used in Chapter 8.36 of this Code shall refer to the registered or legal owner or any other person sought to be charged with the responsibility of abatement.

- **18.08.054 – Limitations to Moor or Beach a Vessel.**

Other than those vessels lawfully permitted to be within the Brisbane Marina, it is unlawful for any person to moor or beach any vessel in City waters in excess of 10 hours without first obtaining the written permission of the Harbormaster.

- **18.08.056 - Beached vessels.**

Except in an emergency and except for those vessels lawfully docked in harbor and marina facilities, it shall be unlawful for the owner or person in control or custody of any vessel to

beach in City waters or upon the dike forming the southern boundary of the former Sierra Point landfill.

- **18.08.060 - Establishment and promulgation of additional rules.**

The berthing of vessels and other activities and operations of and in the Brisbane Marina not herein regulated shall be in conformance with reasonable regulations established by resolution of the city council of the city. Such regulations shall be based upon the maintenance within the marina of sanitary and sightly conditions, orderliness, the preservation of public health, safety, peace and welfare, and the convenience of the public in the use of such area for the purpose for which it is established. All licensees shall be given a copy of the ordinance codified in this title and a copy of any additional rules which may be promulgated pursuant to this section. A copy of these documents shall be posted in the harbormaster's office.

Chapter 18.300 - PENALTIES

- **18.300.010 - Violation—Penalties.**

The violation of any of the provisions of this title shall constitute a misdemeanor, punishable by the fines, penalties and enforcement provisions set forth in Chapters 1.14, 1.16 and 1.18 of this code.

- **18.300.020 - Impoundment.**

The city shall have the right and power to remove or impound the vessel of any person violating the rules and regulations or failing to pay required fees, or leaving any vessel in City waters or beached for 72 or more hours, at the sole cost and expense of the owner. The registered and legal owner of the vessel so removed and impounded shall have the right to secure the release of such vessel upon furnishing proof of ownership and payment of the costs and expense of removal, impoundment and/or storage of the vessel. In addition, the provisions of the Boater's Lien Law, currently set forth in California Harbors and Navigation Code Section 500 et seq., shall apply. Impound fees shall be established by resolution of the city council of the city. Impound fees will be assessed daily.

- **18.300.030 - Responsible parties.**

Compliance with the rules and regulations established or authorized by this title is the responsibility of vessel owners, their guests, and visitors to the Brisbane Marina.

SECTION 2: 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 3: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

Madison Davis, Mayor

* * * *

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 _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM: