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## RI CRMC STANDARDS

### §1.3.1 IN TIDAL AND COASTAL POND WATERS, ON SHORELINE FEATURES AND THEIR CONTIGUOUS AREAS

#### A. Category B Requirements

**1. The requirements herein for a Category B Assent are necessary data and information for the purposes of federal consistency reviews. All persons applying for a Category B Assent are required to:**

**1. Demonstrate the need for the proposed activity or alteration.**

The existing configuration is truncated by a historic riparian line established by the USACE, resulting in an oblique fixed pier on the northwest side. The consequence is a layout that confuses boaters in the public fairway, and a significantly restricted Marina interior with poor to unsafe navigation. Currently, the boating hazards are a hardship to the owner/operator and have impacted water dependent operations and functional use of the Marina; However, the riparian area is now under City of Newport jurisdiction, and both the Newport Harbor Master and the Newport Waterfront Commission reported hazardous conditions at/inside the marina during recent site visits; confirming the layout needs to be altered to improve navigation and boater safety. The poor boating condition can clearly be addressed by partially altering the configuration without impacting navigation in the channel or the moorings in the Newport Harbor Anchorage.

Additionally, the floating docks are redesigned to be structurally independent from the fixed piers. This will aid in structure resiliency during storm events and reduce degradation caused by cyclical movement of the docks from wave action.

**2. Demonstrate that all applicable local zoning ordinances, building codes, flood hazard standards, and all safety codes, fire codes, and environmental requirements have or will be met; local approvals are required for activities as specifically prescribed for nontidal portions of a project in §§ 1.3.1(B), (C), (F), (H), (I), (K), (M), (O) and (Q) of this Part; for projects on state land, the state building official, for the purposes of this section, is the building official;**

As specified on the attached plans, all work will comply with local, state and federal requirements. All marina elements will be installed by a RI licensed marine contractor with experience building marine structures in the state. Design and construction shall meet or exceed the minimum requirements outlined in RICRMC § 1.3(D). A building official signoff form is included in this application.

**3. Describe the boundaries of the coastal waters and land area that is anticipated to be affected;**

The site is located within Newport Harbor, a CRMC designated type 5, Recreational and Commercial Harbor, area. The coastline is manmade shoreline consisting of steel sheet pile walls within the project parcel boundaries. Additional types of engineered coastlines exist in the nearby environs. Additionally, this area is a designated destination harbor. All proposed work is within the harbor; landward redevelopments are beyond the scope of this assent and submitted under a separate cover.

**4. Demonstrate that the alteration or activity will not result in significant impacts on erosion and/or deposition processes along the shore and in tidal waters;**

The proposed alterations are consistent with the existing land use on site and on the abutting coastal areas and as such will not change the local erosion and/or depositional processes. The design of the facility uses traditional marine construction methods and materials and is predominately open framed, resulting in no documented water quality deterioration and is conducive to allowing natural processes like water circulation,

flushing, turbidity, and sedimentation to continue. Provided wave boards terminate sufficiently above the mudline to allow natural sedimentation and water circulation processes to occur. Sufficient water depth is present on-site, and thus bottom chaffing and settling of the floats at low tide is not expected.

**5. Demonstrate that the alteration or activity will not result in significant impacts on the abundance and diversity of plant and animal life;**

The proposed alterations will not significantly change the habitats present at the site. During construction there may be some minor displacement of the plant and animal life. After construction is complete it is expected that all plants and animals will re-colonize. No submerged aquatic vegetation was observed during a Submerged Aquatic Vegetation Survey dated September 20 2024 (see attachment G). As such no impacts on the abundance or diversity of plant and animal life are anticipated.

**6. Demonstrate that the alteration will not unreasonably interfere with, impair, or significantly impact existing public access to, or use of, tidal waters and/or the shore;**

No impact to the Waites Wharf Public Access Right of Way is proposed (CRMC ROW #Z-22) with the work associated with this Assent application. Upon project completion public access at the 30'x90' fixed pier shall be improved via provision of seasonal benches and a shade structure designed for use while waiting at the public ferry / water taxi stop. As a part of the greater hotel development project planned for the parcels landward of the marina, the public access right of way will be expanded and lengthened. Improvements to the public accessway at the channel and West Extension St. (CRMC ROW #Z-21) will occur and include construction of public kayak racks and improved access to these structures. The improvements to the public accessway at the channel and terminus of West Extension St. will tie into more extensive enhancements scheduled to occur during the landside improvements and hotel development project (submitted under a separate cover, shown on plans for coordination). Additionally, water access is being improved via removal of a section of fixed piers along the northern shoreline and in the vicinity of the common public fairway.

**7. Demonstrate that the alteration will not result in significant impacts to water circulation, flushing, turbidity, and sedimentation;**

Use of piles to support the proposed structures will minimize the in-water footprint of the alterations. As a result, no significant impacts to water circulation, flushing, turbidity, and sedimentation are documented with this typical marine construction. In addition, the provided wave boards have been designed to terminate sufficiently above the mudline to allow natural sedimentation and water circulation processes to occur.

**8. Demonstrate that there will be no significant deterioration in the quality of the water in the immediate vicinity as defined by DEM;**

All construction materials are consistent with traditional marine construction methods and materials will conform to all State requirements, have been used in the past on similar projects; resulting in no documented deterioration of the water quality in the area.

**9. Demonstrate that the alteration or activity will not result in significant impacts to areas of historic and archaeological significance;**

There are no known areas of historic or archeological significance in the area of the project site.

**10. Demonstrate that the alteration or activity will not result in significant conflicts with water dependent uses and activities such as recreational boating, fishing, swimming, navigation, and commerce, and;**

The proposed structures/features are consistent with the existing site/water type usage. Additionally, care has been taken to follow setbacks associated with public mooring areas and preserve the existing recreational

boat access routes. The reconfiguration will improve navigation, public access, and safety within the surrounding waters.

**11. Demonstrate that measures have been taken to minimize any adverse scenic impact (see § 1.3.5 of this Part).**

The proposed project will be in conformance with the surrounding area. The water type in this area is type 5, where the council allows new construction and alteration of marinas. Marina structures exist both to the direct north and south of the project location. Construction methods are consistent with the surrounding structures.

**D.2 MARINA POLICIES**

**a. The Council encourages marinas to utilize techniques that make the most efficient use of space and increased demands for moorage, dockage, and storage space by primarily utilizing dry stack storage in addition to innovative slip and mooring configurations, etc.**

The proposed layout seeks to remedy the existing, hazardous layout and restricted vessel fairway. The proposed structure has been designed to better and more safely serve the public usage within a minimally increased footprint. No expansion of the structure's capacity is proposed, and as a destination harbor, permanent and dry stack storage is not proposed, or exists.

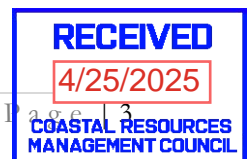
**b. All new and significantly expanded marinas shall first submit a preliminary determination (PD) application to the CRMC for a conceptual evaluation of the proposed project. The preliminary determination shall include an alternatives analysis to evaluate that the use of the public trust resources proposed are the most efficient and protective of the environment. The primary objective of the PD shall be to document all efforts to avoid adverse impacts and to minimize and offset unavoidable adverse impacts to aquatic and terrestrial resources. Such documentation shall be in the form of an objective analysis of alternatives that satisfies the above review criteria and provides an evaluation of practicable alternate sites and/or designs. The applicant shall be required to attend a meeting with the CRMC staff to review the results of the preliminary determination. In assessing a proposed marina facility, the Council shall require a preliminary determination/alternatives analysis that details the following:**

**1) The appropriateness of the facility given the activities potential to impact Rhode Island's coastal resources;**

The proposed reconfiguration is located within type 5 waters and is surrounded by marinas to both the north and south. Extension of the fixed pier/marina footprint is limited to north of the existing oblique jog and no encroachment further seaward into Newport Harbor occurs. Reconfiguration seeks to construct a typical and safer marina layout following the removal of the former Army Corps of Engineers Riparian Line.

**2) The appropriateness of the structure given environmental site conditions;**

The existing site conditions are a developed marina with no observed submerged aquatic vegetation. The proposed alterations are consistent with the existing land use on site and on the abutting coastal areas and as such will not change the local erosion and/or depositional processes. The design of the facility uses traditional marine construction methods and materials and is predominately open framed, resulting in no documented water quality deterioration and is conducive to allowing natural processes like water circulation, flushing, turbidity, and sedimentation to continue. Provided wave boards terminate sufficiently above the mudline to allow natural sedimentation and water circulation processes to occur. Sufficient water depth is present on-site, and thus bottom chaffing and settling of the floats at low tide is not expected.



- 3) The potential impacts of the structure and use of the facility on public trust resources (e.g., fin fish, shellfish, submerged aquatic vegetation, benthic habitat, commerce, navigation, recreation, natural resources, and other uses of the submerged lands, etc.);**

Site and adjacent environs have been used as developed marinas since the 1990s. A submerged aquatic vegetation survey did not observe the presence of SAV in the area. The structure has been designed to improve public recreational access to the water, both with the marina proper and the coordination with the City of Newport to provide kayak racks and a kayak launch at the West Extension Street / Sisson's Wharf public access path. Adjacent accessways and public fairways have been mapped on the provided plans and will not be encroached upon by the proposed reconfiguration.

- 4) The potential navigation impacts of the structure and associated use of the structure;**

The reconfiguration is proposed to improve navigation with the existing marina basin. This will improve the access and usability of the structure. The new fixed piers proposed to accomplish these improvements will not extend into any nearby accessways or fairways or beyond the property line extensions of the applicant's properties. These elements are limited to the area formerly restricted by the Army Corps Riparian Line. No expansion of the facility's capacity is proposed and as such no increased boat traffic is anticipated.

- 5) The potential aesthetic and scenic impacts associated with the structure;**

The proposed activities will match both the existing structure and the marinas in the surrounding area resulting in no negative scenic impact. The existing pier structure is being altered in kind with new timber piers and aging and weathered components replaced or restored in kind. The new floats will use steel piles and aluminum floats that have been successfully implemented elsewhere in Newport Harbor.

- 6) The cumulative impacts associated with the increased density of existing recreational boating facilities in the vicinity of the proposed project. In considering these factors, the Council shall weigh the benefits of the proposed activity against its potential impacts while ensuring that it does not cause an adverse impact on other existing uses of Rhode Island's public trust resources;**

The proposed activities do not increase the density of recreational boating facilities in the vicinity as no expansion of the existing marina is proposed.

- 7) The potential impacts to other recreational or commercial uses of the affected resource;**

The proposed reconfiguration does not extend into any accessways or public fairways in adjacent waters and no impacts of the affected resource are anticipated. The reconfiguration extends the structure into the area formerly restricted by the Army Corps riparian line. This line/area was oriented at an oblique angle to the main structure's layout and by extending into it, the maximum seaward extents of the structure have not increased.

- 8) The extent to which any disruption of the public use of such lands is temporary or permanent;**

No new permanent disruption to the public trust lands are proposed. Construction activities shall be completed by barge and are likely to be performed in the winter season when little impact on recreational boating will occur. A temporary public access plan has been created to minimize impacts to access during construction.

- 9) The extent to which the public at large would benefit from the activity or project and the extent to which it would suffer detriment; and**

The Applicant intends to improve the quality of services provided to the public patrons of the marina via improving the access to the marina basin. The public at large will benefit from the proposed kayak racks along the channel and from the coordination with the City to add a new kayak launch in this area and improve the

deteriorated “drainage ditch”. Additionally, a seasonal shade structure with benches shall be provided at the ferry stop for use by the public. No activities will be to the detriment of the public.

**10) The extent to which structures that extend over submerged lands are dependent upon water access for their primary purpose.**

The proposed piers and floating docks are intended to provide land access and limited protection to berthed vessels. They are fully dependent on water access to accomplish this purpose.

- c. **It is the policy of the Council that the applicant demonstrates through measurable standards referred to herein that the marina expansion cannot be accomplished within the existing Marina Perimeter Limit through utilization of more efficient configurations.**

No expansion of the marina’s capacity is proposed, rather the structural footprint is being reconfigured to fix the navigation issues within the existing structure. The Applicant’s experience has indicated that the existing layout creates a hazardous and challenging accessway into the marina basin with multiple boat collisions occurring yearly. This reconfiguration will remediate this problem. A new MPL is proposed/re-established to encompass the changes to the layout.

- d. **The Council shall require persons proposing to construct new marina facilities or proposing to expand existing marina facilities to undertake measures that mitigate the adverse impacts to water quality associated with the proposed activity. Applicants shall apply for a Water Quality Certificate from the RI Department of Environmental Management and Army Corps of Engineers Permit, concurrent with their application to CRMC.**

The Applicant is coordinating with the departments referenced above to meet this requirement.

- e. **The construction of marinas, docks, piers, floats and other recreational boating facilities located on tidal lands or waters constitutes a use of Rhode Island's public trust resources. Due to the CRMC's legislative mandate to manage Rhode Island's public trust resources for this and subsequent generations, the Council must assess all proposed uses of public trust lands or waters on a case-by-case basis, examine reasonable alternatives to the proposed activity, and ensure that the public's interests in the public trust resources are protected.**

The Applicant has managed the existing structure for multiple decades during which time the existing layout has created numerous hazardous boat accidents. With the removal of the Army Corps Riparian Line, the Applicant seeks to reconfigure the structure, improving navigation, safety, and public access. Coordination with the City of Newport has been performed to ensure no negative impacts to the surrounding resources will occur. Improvements to public access are proposed via the kayak rack and launch improvements and ferry stop shade structure to be completed concurrently or following project completion.

- f. **It is the Council’s policy that new or significant marina expansions must demonstrate:**

- 1) There is no alternative within the current in-water perimeter that would accommodate the expansion;**

The fixed pier layout is the source of the marina’s unsafe fairway access. Extension of the fixed piers and the in-water perimeter is the only way to solve this issue while maintaining the marina’s capacity.

- 2) The area requested is the minimum necessary; and**

Multiple layout options were explored during the planning process, the proposed option was chosen as the most effective at reducing navigational issues with the minimum necessary expansion (by area) of the structure.



- 3) The request avoids or minimizes impact to the aquatic environment and traditional uses in the area.

The proposed reconfiguration does not extend into any accessways or public fairways in adjacent waters and no impacts to the affected resources are anticipated.

- g. The Council encourages all recreational boating facilities to provide an opportunity for a variety of boat sizes and types so as to provide access for the widest segment of the public to the Public Trust Resources.

The proposed reconfiguration of the marina accommodates vessels typically between 20 and 50 feet however has accommodation for vessels up to 210 feet (LOA). Additionally, as a part of this project, the Applicant is working with the City of Newport to provide a public kayak launch in the channel by the terminus of West Extension St. at the existing Dinghy Dock and kayak racks on the Applicant's property in the vicinity of the channel. These activities will improve public access to Newport Harbor both to boat owners and the public at large.

- h. It is the Council's policy to require a public access plan or an enhancement to existing access, in accordance with § 1.3.6 of this Part (Protection & Enhancement of Public Access to the Shore), as part of any application for a new marina, or for a significant expansion to any existing marina. In accordance with § 1.1.7 of this Part, a variance from this policy may be granted if an applicant can demonstrate that no significant adverse public access impacts will occur as a result of the project. The public access plan must detail the vehicle parking that will be provided to support the proposed public access. All boating facilities shall be designed and constructed in a manner which does not impede or detract from and whenever practicable promote public access along and to the shore.

A public access plan is present at the site, and public access shall be maintained following completion of the proposed activities. Improvements to the public accessways will occur at the channel by West Extension St. near the proposed kayak racks to create access to these structures. The improvements at the kayak racks will tie into more extensive enhancements scheduled to occur during the landside improvements and hotel development project (submitted under a separate cover, shown on plans for coordination). During construction, public access shall be maintained via the temporary public access plan to minimize impacts to the extent practical.

## D.9 MARINA STANDARDS

- a. All new or significantly expanded marina designs shall be in accordance with Table 8 in § 1.3.1(D) of this Part (Minimum Design Criteria), but in no case shall any structural member be designed to withstand less than one hundred (100) year storm frequency, including breaking wave conditions in accordance with ASCE 7 (Minimum Design Loads For Buildings and Other Structures, 2016) and FEMA Manual 55 (Coastal Construction Manual, 2011) incorporated by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations. All design elements including the bathymetry shall be stamped by a Rhode Island registered Rhode Island Professional Engineer. Any reconstruction of an existing marina destroyed by a catastrophic event shall have the piles and float restraint systems designed to meet the one hundred (100) year storm frequency, while other elements shall meet the requirements for a fifty (50) year storm at a minimum.

The proposed reconfiguration components have been designed to meet the standards listed here. Submitted plans have been stamped by a registered Rhode Island Professional Engineer.

- b. **New marinas or any significant expansion of an existing marina shall first submit a Preliminary Determination request. The executive director may waive this requirement for limited marinas when there is minimal expected impact to the resources and no known use conflicts.**

It is the Applicant's understanding that the proposed reconfigurations do not constitute a significant expansion and a Preliminary Determination request is not required.

- 1) **In order to minimize the impact of the significant expansion within tidal waters, the preferred mode of expansion shall be dry-stack marina, on the applicant's property or in areas controlled by the applicant, when consistent with local ordinances.**

As a marina within a destination harbor with no year-round boat storage, dry-stack storage is not practical. In consideration of the transient/short term intended usage of the marina and the high demand of the upland historic district, the applicant does not propose any dry-stack storage.

- 2) **As part of the requirements under § 1.3.1(A) of this Part (Category B Requirements), the applicant shall state the basis for the number of wet slips requested.**

The Applicant is not requesting any changes to the number of slips (27) permitted at their facility. The proposed activities are limited to reconfiguration of the fixed pier and float structures to create a safer and more boat friendly traffic pattern.

- c. **In evaluating the facility proposal, the applicant must demonstrate that:**

- 1) **Potential impacts have been or can be avoided to the maximum extent practicable when considering existing technology, infrastructure, logistics, and costs in light of approved project purposes; and**
- 2) **Impacts have been or can be minimized to an extent practicable and appropriate to the scope and degree of those environmental impacts; and**
- 3) **Any unavoidable impacts to aquatic and terrestrial resources have been or will be mitigated to an extent that is practicable and appropriate.**

The proposed reconfiguration is limited to the alteration of the existing structure's geometry required to promote safer boat access. No expansion of the facility in terms of quantity or types of services provided are proposed. As such, it is the applicant's understanding that impacts to the above factors have been avoided or minimized to the maximum extent practical.

- d. **The density of in-water vessels shall be greater than thirty (30) vessels per acre (except in destination harbors) within the MPL. If vessel density is less than the limit, reduction of the MPL will be required.**

The density of in-water vessels are not required to reach the 30 vessels per acre requirement as the structure is located within a destination harbor.

- e. **Dockage for dry stack vessel loading and temporary storage shall be excluded from the marina density calculations, provided only dry stack vessels and vessels awaiting pump out utilize the area. There shall be no permanent or transient use of the docks used for dry stack vessels or pumpouts.**

No dry-stack storage is provided or proposed at the site.

- f. **Marina layout and geometry shall utilize existing bathymetry to the greatest extent possible. The layout shall provide for similar size vessels located such that fairway widths can be minimized in areas of smaller vessels. Fairways shall be a minimum of 1.5-times the length of the average vessel length utilizing the fairway.**

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The existing marina layout does not meet this standard, the effects of which have created unsafe boating conditions which this assent seeks to remedy. The proposed fairways meet the minimum width of 1.5-times the length of the utilizing vessel.

- g. The maximum length of any contiguous dock, both fixed and floating shall be one thousand (1,000) feet for all new or expanded marinas.**

The proposed reconfiguration will result in a maximum dock length of approximately 630-feet.

- h. Sufficient sanitary facilities shall be provided to service the patrons of the marina, in accordance with Table 7 of § 1.3.1(D) of this Part (Minimum Required Sanitary Facilities). The maximum distance from sanitary facilities for any slip shall be within a one thousand (1,000) foot radius from the facilities. This may require more than one sanitary facility location. Portable toilets may be considered sufficient for limited marinas.**

Sanitary facilities are provided equal to or in excess of the requirements presented in Table 7. All facilities are within a 1000-foot radius of the furthest slip. The entire site's parcels are within a 1000-foot radius of the furthest slip. With 27 permitted vessels, three toilets, one urinal, and one pump out location are required by the RICRMP. This standard has been met under the existing conditions and will be met under proposed conditions as well.

- i. Marinas with more than two hundred (200) vessels with an average length in excess of thirty-eight (38) feet may be eligible for a reduction in the minimum number of facilities at the discretion of the executive director with an acceptable pump out plan.**

Not applicable

**1) Table 7: Minimum required sanitary facilities**

Number of Vessels	Toilets	Urinals	Pump Out locations
5 - 25	2	1	1
26-100	3	1	1
101-200	4	2	2
201-250	5	2	3
251-300	6	2	3

- j. Marina owners shall submit documentation of compliance with the State of Rhode Island's requirements of National Fire Protection Association (NFPA) 303 Standard for Marinas and Boatyards from the local or State Fire Official, where appropriate.**

Marina reconfiguration has been designed in conformance with the State of Rhode Island's requirements of National Fire Protection Association (NFPA) 303 Standard for Marinas and Boatyards. The proposed design has been discussed with the local Fire Official and recommendations have been implemented.

- k. All electrical installations shall be designed and installed in accordance with the requirements of the NFPA, State building and electrical code. The operations & maintenance plan shall certify that all applicable codes have been met.**



All new electrical installations, including proposed pedestals and lighting, will be designed and installed in accordance with the applicable codes and standards.

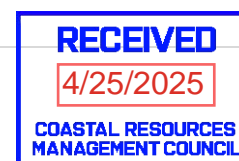
1. **Sufficient parking shall be provided for the patrons of the marina. A standard of three hundred (300) square feet is required for each parking space; the minimum requirements for the total number of parking spaces provided is one (1) space for each one and one half (1.5) vessel. If parking for dry stack vessels is in the rack space, no additional parking is required. On grade Parking for dry stack shall be at one space for five (5) vessels. Parking for new or expanded marinas in destination harbors shall be one (1) space for every twenty-five (25) vessels of new or expanded slips.**

As a marina in a destination harbor, 2 parking spaces are required, otherwise 18 spaces would be required according to the RICRMP. Per the original assent, 26 parking spaces are required. In all cases the existing site has sufficient parking as 131 spaces are provided to serve both the marina and other landside developments. Following completion of the landside redevelopments, parking spaces allotted to the Marina will increase to 29 spaces in accordance with current City of Newport zoning regulations.

- m. **A Council Assent for a marina permits the marina operator to undertake minor repairs and alterations of approved facilities without further review, where such repairs or activities will not alter the assented design, capacity, purpose or use of the marina. For the purposes of this section, the assented design, capacity, purpose or use of the marina shall be those characteristics associated with the physical configuration or construction, numbers and sizes of vessels accommodated at in-water facilities, and nature of operation as defined in the original Council Assent, respectively. Minor repairs and alterations to in-water facilities shall include repair or replacement of dock decking or planks, replacing pilings, extensions of slips and/or finger piers within the perimeter and capacity of the marina as defined within the original Assent, or as established in § 1.3.1(D)(9)(o) of this Part, and other activities of a similar and non-substantial nature. Minor repairs and alterations to upland facilities may take place upon Council approval of an operations and maintenance plan as identified below in § 1.3.1(D)(9)(q) of this Part and shall include grading of parking and launch ramp areas, grouting of seawalls, plumbing and electrical work, maintenance of sidewalks, fences and walkways, flagpole installations, landscaping, signage and other activities of a similar and non-substantial nature. Minor repairs and alterations shall not be construed to include maintenance dredging, alterations, repairs or expansion of shoreline protection facilities, bulkheads, or breakwaters or other activities subject to review under other relevant sections of this program. All minor repairs and alterations shall take place within the assented design of the marina, or marina perimeter as defined in the original Council Assent or as established in accordance with § 1.3.1(D)(9)(o) of this Part. Any repair or replacement of floats for existing marinas shall meet current float design standards.**

The preceding standard has been incorporated into the submitted Operations and Maintenance Plan with regards to the permitting requirements, or lack thereof, for maintenance and operation procedures of the facility.

- n. **In those instances where the minor repair or alteration would require the use of heavy machinery (such as a pile driver or grader), the Council shall be notified in writing at least ten (10) working days prior to undertaking the work. Notice of repair activities requiring the use of heavy machinery shall include the following:**
  - 1) **A statement that the notice is given pursuant to § 1.3.1(D)(9)(n) of this Part;**
  - 2) **A description of the proposed repair or alteration to be performed including a statement as to the size and type of materials to be used;**



- 3) A copy of the original Council Assent or Division of Harbors and Rivers permit under which the proposed repair or alteration is to be performed;
- 4) A copy of the site plan from the original Council Assent showing the location of the proposed repair or alteration;
- 5) The name of the person on-site responsible for supervising the proposed repair or alteration; and
- 6) The anticipated dates on which the proposed repair or alteration shall commence and be completed.

Notice shall be provided to the Council by the Applicant prior to commencement of any activities described above.

- o. All marinas and/or mooring areas shall have a defined perimeter for in-water facilities, which shall describe and limit that area in which the repair or alteration activities described in §§ 1.3.1(D)(9)(m), 1.3.1(D)(9)(n) and 1.3.1(D)(9)(p) of this Part may take place. Operators of marinas may apply to the Council for definition and establishment of this perimeter at any time. Perimeters shall be defined on the basis of in-water facilities in place as of September 30, 1971, or subsequently assented structures. All new or modified Marina Perimeter Limit lines shall be a maximum of ten (10) feet outside of the marina structures. The MPL shall be designated on all plans with the corners designated by their State Plane Coordinates.

The MPL has been delineated in accordance with the limits listed, i.e. 10-feet outside of the new marina structures and as discussed in Attachment A, Project Narrative.

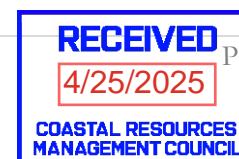
- p. It is permissible to have vessels berthed at a facility outside of the Marina Perimeter Limit if, in the opinion of the executive director, there are no conflicts with other users, or impacts to resources, or conflicts with the DEM Shellfish Program. All vessels shall be berthed parallel to piers and docks if outside of the MPL. Mediterranean style mooring (vessel perpendicular to the dock at the stern beyond the MPL) may be permissible in destination harbors if the executive director determines that there are no adverse impacts to existing navigation, fishing, commerce or recreational uses.

Berthing outside the MPL shall be limited to the areas allowed per the site's permit history. Notably, this restricts the berthing of vessels along the northernmost jog in the existing deck area abutting the common public fairway. No mediterranean style moorings are currently proposed at the site although allowable as a marina within a destination harbor.

- q. Proposals for the alteration or reconfiguration of in-water facilities such as piers and/or mooring areas shall be reviewed in the following manner:
  - 1) Alterations to the layout or configuration of in-water facilities within a previously approved MPL which do not increase the number of boats accommodated shall obtain a Certification of Maintenance in accordance with the requirements of § 1.3.1(N) of this Part;

Not applicable

- 2) Alterations which propose to increase the number of boats that may be accommodated at the in-water facilities of the marina within twenty-five percent (25%) of the capacity of the marina as defined in the original Council Assent, and do not propose to extend the facility beyond the defined perimeters (established pursuant to the original Council Assent or § 1.3.1(D)(9)(o) of this Part shall be reviewed as Category A applications. The Council's review shall establish that the alterations and/or expansion meet the twenty-five percent (25%) standard, and that the Council's standards for parking and sanitary facilities are met. If the twenty-five percent (25%) increase changes the marina type, the expansion shall be treated as a Category B application and all standards for the new marina designation shall apply; and



Not applicable

- 3) Alterations which propose to increase the numbers of vessels accommodated at the in-water facilities beyond 25% of the capacity as defined in the original Council Assent, and/or extend the facility beyond the defined perimeters, or alter the purpose of the facility shall be reviewed as a Category B application. The executive director may allow a onetime expansion of the MPL for limited marinas in Type 2 waters up to twenty-five percent (25%) of the assented/original boat capacity.

The proposed activities are limited to extension of the facility beyond the defined perimeters. No increase in capacity is proposed (less than 25% expansion)

- 4) Alterations to marinas in Type 2 waters shall have all in- water vessels and dry stack vessels count towards the twenty-five percent (25%) increase in vessel/boat capacity.

Not Applicable

- r. New marinas and significantly expanded existing marinas must submit a draft operations & maintenance plan with their marina permit application. Existing marinas must submit the plan within one (1) year of the effective date of this regulation. Whenever the marina ownership or leasehold changes, the O&M plan must be revised and resubmitted for approval. Plan approvals are valid for three (3) years without any change in ownership, expansion or major infrastructure work.

An updated / new marina Operations and Maintenance plan has been submitted under this cover.

- s. All O&M plans shall include the information outlined in the guidance document “Marina Operations and Maintenance Plans” by the CRMC.

The submitted O&M plan has been prepared in accordance with the Marina Operations and Maintenance Plans document.

- t. Any Marina that has a “Clean Marina” certification issued by the CRMC will only be required to submit the facility layout plan (plan requirements in guidance Document “Marina Operations and Maintenance Plans” by the CRMC and Clean Marina certification approval letter in lieu of an O&M plan.

Not Applicable

- u. Any alterations to mooring areas shall be consistent with any CRMC approved municipal harbor management rules, regulations or programs, as defined in § 1.3.1(O) of this Part.

No alterations to mooring areas are proposed. The proposed marina layout has been reviewed by the local Harbor Master. Formal documentation of no objection from the Harbor Master is anticipated during the public review / comment period following application submission.

- v. All new marina facilities shall be required to install a marine pumpout facility. Any significant expansion or alteration of an existing marina facility that results in greater than or equal to fifty (50) new slips or where adequate pumpout service is not currently available shall be required to install a marine pumpout facility. Any expansion or alteration of an existing marina facility which proposes to increase the number of vessels accommodated at the in-water facilities beyond twenty-five percent (25%) of the capacity as defined in the original Council Assent shall be required to undertake mitigative measures. If twenty-five percent (25%) of the capacity, as defined in the original Council Assent, is greater than or equal to fifty (50) slips, then a marine pumpout facility shall be required. If twenty-five percent (25%) of the capacity, as defined in the original Council Assent, is less than fifty (50) slips, then the Council shall require either the installation of a marine pumpout facility or other

**suitable mitigation measures. In no case shall the number of pump outs be less than those shown in Table 7 in § 1.3.1(D) of this Part (Minimum Required Sanitary Facilities).**

Per table 7, one marine pumpout facility is required at the marina under both the existing and proposed conditions. These capabilities are and will continue to be provided by the Newport Harbor Pump Out Boat. Additional pumpout facilities are available at the nearby Goat Island Marina, Newport Yacht Club, Bowen's Wharf, and Fort Adams within Newport Harbor. As the proposed reconfiguration does not constitute a significant expansion of the existing marina facility and adequate pumpout services are available at the site, it is the applicant's understanding that installation of a new marine pumpout facility is not required.

- w. If the applicant can demonstrate that there are already enough marine pumpout facilities to serve all of the recreational boating facilities found in the region, then the Council may waive the requirement for a marine pumpout facility and require alternative mitigative measures.**

Marina patrons can coordinate pumpout services on site via the Newport Harbor Pumpout Boats (VHF channel 09) or via the four (4) additional dockside pumpout facilities within the Harbor (Bowen's Wharf, Newport Yacht Club, Fort Adams, and Goat Island Marina)

- x. All marine pumpout facilities or pumpout stations shall be designed in a manner that serves the boating public. Pumpout facilities shall be located in an accessible location. The dock utilized for the pumpout shall not be available for dockage of any kind beyond the reasonable time for vessel pumpout. In addition, all marine pumpout facilities shall be open for the general public's use. However, marina operators may charge a fair and nondiscriminatory fee to cover the cost of constructing and operating these facilities. Portable pumpouts (including vessel mounted pumpouts) shall only be allowed after a facility has one (1) fixed pumpouts in place that meets all requirements. Portable pumpouts are not considered to satisfy the requirements for a pumpout except in the case of a Limited Marina.**

Not applicable.

- y. All new marina facilities shall meet the setback policies and standards contained in municipal harbor management plans and/or harbor ordinances approved by the Council. However, in all cases marina facilities shall be setback at least fifty (50) feet from approved mooring fields and three times the authorized project depth from federal navigation projects (e.g. navigation channels and anchorage areas).**

Marina facilities are set back in excess of 50-feet from the nearby mooring field. No federal navigation projects are within the nearby vicinity following removal of the Army Corps riparian line. The proposed marina layout has been reviewed by the local Harbor Master.

- z. All new or replacement floats shall utilize floatation that was specifically fabricated for marine use and warranted by its manufacturer for such use. Foam billets or foam bead shall not be utilized unless it is completely encapsulated within impact resistant plastic. All existing installations of non-encapsulated floatation shall be replaced at a rate of ten percent (10%) per year (minimum) during normal maintenance. This shall be detailed in the O&M plan. The start of mandatory replacement shall begin in October 2011.**

All new floats are to be supplied by a manufacturer that specifically fabricates for marine use and is warranted as such. No non-encapsulated floatation is present at the site.

- aa. All new marinas (including expansions) and water dependent facilities shall be designed in accordance with the latest Accessible Boating Facilities Guidelines by the United States Access Board promulgated under 36 C.F.R. Part 1191. The number of fully accessible slips shall be in**

accordance with the latest version of the guidelines, but in no case shall be less than 2% of the facility.  
**Limited Marinas are not required to meet the accessibility guidelines, but are encouraged to do so.**

Not applicable; however, the marina reconfiguration as proposed accommodates the minimum accessible slips required per the Accessible Boating Facilities Guidelines.

- bb. The executive director, in his discretion, shall have the authority to determine which of the above standards shall be applied to Limited Marinas.**

Not applicable

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**4/25/2025**

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