

**AVALON CITY COUNCIL MEETING
TUESDAY, JANUARY 21, 2014 – 6:00 P.M.
CITY COUNCIL CHAMBERS
410 AVALON CANYON ROAD, AVALON
A G E N D A**

In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact Denise Radde, City Clerk (310) 510-0220. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35.104 ADA Title II). All public records relating to an agenda item on this agenda are available for the public inspection at the time the records are distributed to all, or a majority of all, members of the City Council. Such records shall be available at City Hall located at 410 Avalon Canyon Rd.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / INVOCATION / ROLL CALL

ANNOUNCEMENTS / WRITTEN COMMUNICATIONS

PRESENTATION

Fats, Oils and Grease program implementation for food service establishments.

ORAL COMMUNICATION

Members of the public may address the City Council at this time. No action will be taken on non-agenda items at this meeting. Speakers should limit comments to three (3) minutes each.

CONSENT CALENDAR

All items listed on the Consent Calendar are considered to be routine by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a specific item is removed from the Consent Calendar for further discussion and possible action.

1. Actions

Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

Recommended Action

Approve actions from the January 7, 2014 City Council meeting.

2. Expenditures Submitted for Approval

- o Warrants in the amount of \$501,315.23
- o Payroll in the amount of \$188,523.01

Recommended Action

Approve total expenditure amount of \$689,838.24.

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3. Encroachment Permit for Grease Interceptor - Maggie's Blue Rose Restaurant at 417 Crescent Avenue
The renovation of 417 Crescent Avenue, Maggie's Blue Rose Restaurant, includes the installation of a grease interceptor for the restaurant operation. The interceptor will be placed in the alley adjacent to Vons Express.
Recommended Action
Approve Encroachment Permit with recommended conditions.

4. Resolution of the City of Avalon Establishing an Appropriations Limit for Fiscal Year 2013-2014 Pursuant to Article XIII B of the California Constitution
The California State Constitution requires that the total annual General Fund appropriations be limited to an amount determined by formula based on the cost of living, personal income and population gains. The City will use the formula using California per capita income change of 1.0512 and the change in population of the County of Los Angeles of 1.0069.
Recommended Action
Adopt resolution establishing an Appropriations Limit for Fiscal Year 2013-2014 pursuant to Article XIII B of the California Constitution.

5. Professional Services Agreement with On the Wing Falconry
The City's contract with On the Wing Falconry expired on October 15, 2013. The City will now enter into a new equitable three-party cost-sharing agreement between the City of Avalon, the Santa Catalina Island Company and the Catalina Island Chamber of Commerce. This will be a great cost savings for the City.
Recommended Action
Accept and ratify the agreement previously entered into by the City Manager on behalf of the City of Avalon with On the Wing Falconry.

6. Alternate City Prosecutor
California Courts have found that in many cases, an impermissible conflict of interest exists when a City Attorney prosecutes code enforcement matters before a City Council. As a result, the City of Avalon should retain a law firm, other than Best Best & Krieger, to prosecute its code enforcement matters.
Recommended Action
Authorize the City Manager to enter into an agreement with the law firm of Dapeer, Rosenbilt & Litvak, LLP to provide alternate City Prosecutor services.

7. Waterside Permit Application – Catalina Coastal Tours
Catalina Coastal Tours has submitted a Waterside Project modification proposing to 1) Add an additional vessel up to 35' and 2) Rent stationary items such inflatable aqua lounges, floating lilly pads and Honda quiet generators to vessels moored in the Avalon area.

Recommended Action

1. Grant the Waterside Permit modification as presented and require Catalina Coastal Tours abide by the standard list of conditions relating to Waterside Permit Applications, including being restricted to Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months.
2. Grant the Waterside Permit Application as presented for the proposed rental of stationary equipment that will be delivered directly to visitors aboard their vessels in Avalon Harbor.

8. Waterside Permit Application – Scotty’s Sportfishing

Scotty’s Sportfishing submitted a Waterside Project Application proposing to use a 21’ powerboat to conduct a 6 passenger or less charter for fishing and sightseeing trips.

Recommended Action

Grant the Waterside Permit Application as presented and require Scotty’s Sportfishing abide by the standard list of conditions relating to Waterside Permit Applications, including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months for his charter business.

9. Waterside Permit Application – Catalina Adventure Sailing

Catalina Adventure Sailing submitted a Waterside Project Application proposing use of his 39’ trimaran to conduct up to 6 passenger on-call charters from Avalon City Waters.

Recommended Action

1. Grant the Waterside Permit Application as presented and require Catalina Adventure Sailing abide by the standard list of conditions relating to Waterside Permit Applications, including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock, whether they are using the catamaran or the tender to pick up their passengers.
2. When Catalina Adventure Sailing has any overnight guests while in Avalon waters, those accommodations be subject to 12% Transient Occupancy Tax.

10. Waterside Permit Application – Catalina Snorkeling Adventures

K&K Scuba Inc., dba Catalina Snorkeling Adventures, currently holds a Waterside Permit that only allows shore based snorkeling tours. Catalina Snorkeling Adventures has submitted a Waterside Project Application requesting to add a 6 passenger, 24’ power boat to conduct boat snorkel tours & excursions from Avalon Harbor.

Recommended Action

Grant the Waterside Permit Project Application as presented and require Catalina Snorkeling Adventures abide by the standard list of conditions relating to Waterside Permit Applications, including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period

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June 15 to September 30 and on cruise ships days throughout the winter months for their charter business.

11. Waterside Permit Application – Diversity Charters

Diversity Charters submitted a Waterside Project Application proposing to use a 24' powerboat to conduct a 6 passenger or less charter for fishing, snorkeling and sightseeing trips.

Recommended Action

Grant the Waterside Permit Application as presented and require Diversity Charters abide by the standard list of conditions relating to Waterside Permit Applications, including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months for his charter business.

12. Waterside Permit Application – Catalina Snorkel & Scuba Adventures

As a result of the new Waterside Permit ordinance, Catalina Snorkel & Scuba Adventures has applied for a new Waterside Permit to conduct guided and/or instructional snorkeling and scuba tours in Lovers Cove and the Casino Dive Park. Guided snorkeling tours will take place in Lovers Cove and the Casino Dive Park, while scuba instruction will take place at the Casino Dive Park.

Recommended Action

Grant the Waterside Permit Project Application as presented, contingent upon successful completion of/compliance with the following:

1. Payment of all fees owed to the City of Avalon, as outlined in the letters dated October 10, 2013 and November 13, 2013.
2. Obtainment of a physical place of business, other than the address on Pebbly Beach Road, where customers can sign waivers and receive snorkeling equipment.
3. Limiting all snorkeling tours to no more than ten (10) persons per certified guide.
4. Conducting all snorkeling tours away from the glass-bottom boat fairway.
5. Abide by the standard list of conditions relating to Waterside Permit Applications, to the satisfaction of the Harbor Master.

GENERAL BUSINESS

13. Ordinance to Adopt the 2013 State of California Building Standards Codes and Local Amendments

Pursuant to California Health and Safety Code sections 17958.5 and 17958.7, cities may adopt modifications to the uniform code which are consistent with the city's unique geography, climate, and/or topography. Accordingly, the City of Avalon has modified Chapters 1, 4, 5, 7 and 8 of Title 8 of the City of Avalon Municipal Code to adopt local amendments for fee transparency, fire and life-safety and seismic adjustments.

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Recommended Action

Introduce and waive all further readings of an ordinance repealing and reenacting several sections of Title 8 of the Avalon Municipal Code and adopt the State Building Standards Codes as modified.

CITY MANAGER REPORT

CITY ATTORNEY REPORT

COUNCILMEMBER REPORTS

MAYOR REPORT

ADJOURN

NOTICE OF POSTING

I, Denise Radde, declare that the City Council Agenda for January 21, 2014 was posted on Friday, January 17, 2014, on the City's website www.cityofavalon.com, and at City Hall, 410 Avalon Canyon Road. Copies of agendas and staff reports are available at City Hall.



Denise A. Radde, City Clerk / Chief Administrative Officer

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 1

ORIGINATING DEP: City Clerk

CITY MANAGER: BJ

PREPARED BY: Denise Radde, City Clerk

SUBJECT: City Council Actions

RECOMMENDED ACTION(S):

Approve City Council Actions from the regular City Council meeting on January 7, 2014..

REPORT SUMMARY:

Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

FISCAL IMPACTS:

N/A

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION:

N/A

FOLLOW UP ACTION:

File actions in the City Clerk's office.

ADVERTISING, NOTICE AND PUBLIC CONTACT:

This item was properly listed on the posted agenda.

ATTACHMENTS:

City Council Actions will be provided under separate cover.

AVALON CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 2

ORIGINATING DEPT: Finance

CITY MANAGER: BM

PREPARED BY: Betty Jo Garcia - Finance Director

DEPT. HEAD: Bjg

SUBJECT: Warrant List

RECOMMENDATION(S): Approve the warrants in the amount of \$501,315.23 and the payroll in amount of \$188,523.01 for a total expenditure amount of \$689,838.24.

REPORT SUMMARY: Attached you will find the warrant list for all general warrants issued for the the dates as indicated drawn on U.S. Bank. The warrant list represents check numbers #17573 - #17629 in the amount of \$501,315.23 for a total expenditure amount of \$501,315.23.

Also represented is the payroll dated January 10, 2014 in the amount of \$188,523.01 for a total expenditure amount of \$188,523.01.

FISCAL IMPACT: There are sufficient funds available, and the expenditures have been approved in the adopted fiscal year 13/14 budget.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S): N/A

FOLLOW UP ACTION(S): N/A

ADVERTISING, NOTICE AND PUBLIC CONTACT: Agenda Posting

ATTACHMENTS: Audit Certificate and Warrant List

WARRANT LIST

AVALON CITY COUNCIL
MEETING OF JANUARY 21, 2014

CHECK NUMBER		AMOUNT	PAYEE	DESCRIPTION
17573	01/03/14	1,709.14	ARAMARK	UNIFORMS - PUBLIC WKS
17574	01/03/14	3,975.54	AT & T	COMMUNICATIONS - ALL DEPTS
17575	01/03/14	366.89	AVALON BOAT STAND	SUPPLIES - GARAGE
17576	01/03/14	4,012.01	BEYOND SOFTWARE SOLUTIONS	IT CONTRACT SVCS - ADMIN
17577	01/03/14	268.54	BSN SPORTS	SUPPLIES - RECREATION
17578	01/03/14	104,296.95	BOULDER CONTRACTING	PROGRESS PYMT - LOWER TERR.
17579	01/03/14	275.00	CAHM & PC	YRLY DUES - HARBOR
17580	01/03/14	72,639.67	CALPERS	MEDICAL - JANUARY 2014
17581	01/03/14	306.60	CANBY, CHARLIE	SUPPLIES - PUBLIC WKS
17582	01/03/14	366.85	CATALINA BEVERAGE	SUPPLIES - ALL DEPTS
17583	01/03/14	3,550.00	CATALINA BOAT YARD, INC	STORAGE FEES - HBR/FUEL DK
17584	01/03/14	26,989.20	CATALINA EXPRESS	SUBSIDY - 1ST HLF DEC 2013
17584	01/03/14	487.50	CATALINA EXPRESS	TRAVEL - ADMIN/PLAN/FINANCE
17585	01/03/14	208.00	CATALINA ISLAND PLUMBING	SERVICE - MOLE RESTROOMS
17586	01/03/14	38.00	CATALINA LAUNDRY	SERVICE - GARAGE
17587	01/03/14	208.00	CATALINA PEST CONTROL	SERVICE - HARBOR
17588	01/03/14	325.00	CATALINA STEAM CLEANING	CONTRACT SVCS - HARBOR
17589	01/03/14	415.25	CERTIFIED PHONE SOLUTIONS	SERVICE - ADMIN
17590	01/03/14	1,224.57	CHET'S HARDWARE	SUPPLIES - ALL DEPTS
17591	01/03/14	5,502.08	COLLINS COLLINS MUIR & STEWARD	LITIGATION FEES - ADMIN
17592	01/03/14	208.05	CONNOLLY PACIFIC CO.	SUPPLIES - CEMETERY EXP. PROJ.
17593	01/03/14	6,240.00	CONSTRUCTORS PLUS	CONTRACT SVCS - ADMIN
17594	01/03/14	1,920.00	CONSTRUCTORS PLUS	CONTRACT SVCS - ADMIN
17595	01/03/14	1,181.25	DON MILLER & SONS	SUPPLIES - CITY RESTROOMS
17596	01/03/14	6,808.29	EDISON	UTILITIES - ALL DEPTS
17597	01/03/14	150.00	FLICKINGER, WILLIAM	REIMB O/P COSTS - EYEWEAR
17598	01/03/14	695.60	GEMPLER'S	UNIFORMS - HARBOR
17599	01/03/14	4,491.25	GEOSOILS	SERVICE - LOWER TERRACE PROJ.
17600	01/03/14	260.56	GRAINGER	SUPPLIES - GARAGE/CDO
17601	01/03/14	1,600.00	HELVETIC CONSULTING, INC.	CONTRACT SVCS - PLANNING
17602	01/03/14	32.85	ISLAND THREADZ	UNIFORMS - GARAGE
17603	01/03/14	379.16	JUDICIAL DATA SYSTEMS	PARKING ACTIVITY - NOV 2013
17604	01/03/14	391.70	KALVIN, MIKE	DAMAGED VESSEL - SEA PAD
17605	01/03/14	2,578.40	LEAGUE OF CALIF. CITIES	YRLY DUES - ADMIN
17606	01/03/14	458.70	LOS ANGELES COUNTY TREASURER	YRLY FEE - FUEL DOCK
17607	01/03/14	2,000.00	MAM SOCIAL, INC.	SERVICE - LOWER TERRACE PROJ.
17608	01/03/14	13.43	MAR-CO EQUIPMENT CO.	SUPPLIES - GARAGE
17609	01/03/14	91.83	MONARCH PRODUCTS	SUPPLIES - GARAGE
17610	01/03/14	48.89	MCMASTER-CARR	SUPPLIES - GARAGE
17611	01/03/14	600.00	MR. NING'S	SENIOR MEALS - DECEMBER 2013
17612	01/03/14	1,364.35	NAPA AUTO PARTS	SUPPLIES - GARAGE
17613	01/03/14	1,000.00	RESERVE ACCOUNT	POSTAGE LINE OF CREDIT
17614	01/03/14	584.90	PORT SUPPLY	SUPPLIES - HARBOR
17615	01/03/14	5,636.50	PLATINUM CONSULTING GROUP	CONTRACT SVCS - FINANCE
17616	01/03/14	63.00	PRAXAIR	SUPPLIES - GARAGE
17617	01/03/14	47.56	QUILL CORP.	SUPPLIES - ADMIN
17618	01/03/14	93.44	QUINN COMPANY	SUPPLIES - GARAGE
17619	01/03/14	1,928.22	RICOH USA, INC.	QTRLY COPIER LEASE - PLANNING
17620	01/03/14	572.98	SAFEWAY, INC.	SUPPLIES - ALL DEPTS
17621	01/03/14	936.40	STEUTER ELECTRIC	SERVICE - ADMIN
17622	01/03/14	457.25	SUN LIFE FINANCIAL	LIFE INSURANCE - DECEMBER 2013
17623	01/03/14	25.28	STEEL EAGLE	SUPPLIES - CDO

17624	01/03/14	22.57	UNITED PARCEL SERVICE	FREIGHT - ADMIN
17625	01/03/14	1,335.09	US BANK	CREDIT CARD CHGS - GARAGE
17626	01/03/14	126.75	VWR	SUPPLIES - CDO
17627	01/03/14	286.80	ZIM'S OF CATALINA	SUPPLIES - HARBOR
17628	01/03/14	146.23	HARVEY, BEN	REIMB O/P COSTS - TRVL/MEETINGS
17629	01/08/14	229,373.16	AVALON ENVIRONMENTAL SVCS	REISSUE LOST WARRANT - OCT/NOV

\$ 501,315.23

RECORD OF CHECKS DRAWN ON JANUARY 3 & 8, 2014 FOR CM OF 01/21/14

MONTH OF JANUARY

US BANK WARRANT #17573 - #17628	\$271,942.07	01/03/2014
US BANK WARRANT #17629	\$229,373.16	01/08/2014
US BANK WARRANT	\$0.00	
US BANK WARRANT	\$0.00	
EFT TO BOE - FUEL DOCK SALES TAX	\$0.00	
		\$501,315.23
PAYROLL DATED January 10, 2014	\$188,523.01	
PAYROLL DATED	\$0.00	
		\$188,523.01
TOTAL DISBURSEMENTS	\$689,838.24	\$689,838.24

APPROVED AND AUDITED
THIS 21ST DAY OF JANUARY 2014

AUDIT COMMITTEE - W.F. OLSEN

AUDIT COMMITTEE - RALPH MORROW

CERTIFICATE

IN ACCORDANCE WITH SECTION 32702
OF THE GOVERNMENT CODE, I CERTIFY
THAT THE ABOVE DEMANDS ARE ACCURATE
AND THAT FUNDS ARE AVAILABLE FOR
PAYMENT.

I CERTIFY UNDER PENALTY OF PERJURY
THAT THE FOREGOING IS TRUE AND
CORRECT.

EXECUTED THIS 21ST DAY OF JANUARY 2014

CITY MANAGER - BEN HARVEY

Betty Jo Garcia

FINANCE DIRECTOR - BETTY JO GARCIA

CITY COUNCIL

MEETING DATE: April 2, 2013

AGENDA ITEM: 3

ORIGINATING DEPT: Planning

CITY MANAGER: BA

PREPARED BY: Amanda Cook

DEPT. HEAD: AC

SUBJECT: Encroachment Permit for Grease Interceptor for Maggie's Blue Rose at 417 Crescent

RECOMMENDED ACTION(S): Approve Encroachment Permit with recommended conditions.

REPORT SUMMARY: The renovation of 417 Crescent, Maggie's Blue Rose Restaurant requires the installation of a Grease Interceptor

Plans submitted for the project include a 125 gallon unit to be installed in the Alley adjacent to Vons Express.

The municipal code states that the encroachment may be granted if the City Council determines that the encroachment is necessary or desirable, that the use of the encroachment does not create a substantial adverse impact on persons or property and the encroachment use does not adversely affect the public health, welfare and safety.

Staff is recommending approval of the grease interceptor with the following conditions:

1. The interceptor must be installed in the alley and not Crescent Ave.
2. The interceptor must be manufactured with materials to withstand possible intrusion by salt water.
3. Applicant will be responsible for any cleanup and/or fines resulting from overflow or malfunction of the interceptor.
4. Any portion of public property disturbed by the installation of the grease interceptor will be restored to as good a condition or better as existed prior to the installation of the grease interceptor.
5. The applicant shall execute a recordable covenant running with the land releasing the City from all claims in the event the City determines to widen or improve the public place where the encroachment is situated and agreeing to list the City as additionally insured in the amount of \$1,000,000 as determined by PARSAC.
6. The applicant shall furnish a bond in an amount sufficient for restoration of the alley in the event the Applicant fails to comply with the conditions of the encroachment permit.

FISCAL IMPACTS: None

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S): Applicant would be required to find alternate location for interceptor.

ALTERNATIVE ACTION(S): None

FOLLOW UP ACTION(S): None

ADVERTISING, NOTICING AND PUBLIC CONTACT:

This item is included on the posted Agenda.

ATTACHMENTS:

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 4

ORIGINATING DEPT: Finance

CITY MANAGER: TBA

PREPARED BY: Betty Jo Garcia

DEPT HEAD: Sgt. L.

**SUBJECT: Adoption of a Resolution of the City of Avalon Establishing an Appropriations
Limit for FY 2013-2014 Pursuant to Article XIII B of the California
Constitution**

RECOMMENDED ACTION(S): Adopt the resolution establishing an Appropriations Limit for Fiscal Year 2013-2014.

REPORT SUMMARY: The California State Constitution requires that the total annual General Fund appropriations be limited to an amount determined by formula based on the cost of living, personal income and population gains. By adoption of the attached resolution the City Council will use the formula using California per capita income change of 1.0512 and the change in population of the County of Los Angeles of 1.0069. This formula establishes the General Fund appropriation limit for Fiscal Year 2013-2014 to be \$8,668,488. The Gann Limit calculation is included in your budget packet.

FISCAL IMPACTS: None

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S): The City would be out of compliance with State Law by not adopting the Appropriations Limit for FY 13-14.

ALTERNATIVE ACTION(S): N/A

FOLLOW UP ACTION(S): File certified copy of adopted resolution.

ADVERTISING, NOTICING AND PUBLIC CONTACT: An advertisement was placed in the Catalina Islander informing the public that the appropriations limit has been established for FY 13-14 and is available for review at City Hall.

ATTACHMENTS:

1. Resolution of the City Council establishing an Appropriations Limit for Fiscal Year 2013-2014.

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 5

ORIGINATING DEPT: City Manager

CITY MANAGER: BH

PREPARED BY: City Manager

DEPT. HEAD: BA

SUBJECT: Professional Services Agreement with On The Wing Falconry

RECOMMENDED ACTION(S): Accept and ratify the agreement previously entered into by the City Manager on behalf of the City of Avalon with On The Wing Falconry.

REPORT SUMMARY: On October 15, 2013, the City's agreement for falconry and nuisance bird abatement with Rocky Post, doing business as On The Wing Falconry, expired. While the City was pleased with the impact Mr. Post's efforts had in reducing nuisance birds, improving the visitor/customer experience and positively impacting Avalon Bay water quality, the structure of the agreement was not financially sustainable for the City. From 2012 through 2013, the City paid On The Wing Falconry approximately \$120,000 (including cross-channel travel reimbursement), provided City housing for the Falconer and birds, and offered access to a City vehicle. Accordingly, at the conclusion of the contract term, Mr. Post was urged to explore additional contracts for services with other island stakeholders, and/or recommend alternative contract terms in order to allow the City to continue to benefit from falconry and nuisance bird abatement services at terms that were prudent and sustainable.

On The Wing Falconry adhered to the City's request, and came back with a proposal for an equitable three-party cost-sharing agreement between The City of Avalon, The Santa Catalina Island Company and the Catalina Island Chamber of Commerce and Visitor's Bureau. This agreement provides for three (3) days of service each week, including a Saturday, Sunday or Tuesday. Each party pays \$2,200 monthly to On The Wing Falconry, for a term of three (3) months, at which time the parties and On The Wing Falconry will review the effectiveness and impact of the program, and determine a path forward. The agreement does not provide for housing, access to vehicles or cross-channel travel reimbursement. The City Manager has entered into the three-party agreement on behalf of The City of Avalon.

FISCAL IMPACTS: \$36,600 from January 28, 2014 through April 27, 2014. Funding was previously allocated and approved within the Fiscal Year 2013/14 Budget Sewer Fund (Account Code 107-25-5-17).

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION(S): Non-participation of City of Avalon in three-party agreement with On The Wing Falconry.

ALTERNATIVE ACTION(S): Explore alternative providers of falconry and nuisance bird abatement services.

FOLLOW UP ACTION(S): None

ADVERTISING, NOTICING AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENTS: Professional Services Agreement with On The Wing Falconry.

CITY COUNCIL

MEETING DATE: January 21, 2014
ORIGINATING DEPT: Code Enforcement
PREPARED BY: City Attorney
SUBJECT: Alternate City Prosecutor

AGENDA ITEM: 6
CITY MANAGER: RL
DEPT HEAD: _____

RECOMMENDED ACTION(S):

Authorize the City Manager to enter into an agreement with the law firm of Dapeer, Rosenbilt & Litvak, LLP to provide alternate City Prosecutor services.

REPORT SUMMARY:

California Courts have found that in many cases, an impermissible conflict of interest exists when a City Attorney prosecutes code enforcement matters before a City Council. As a result, the City of Avalon should retain a law firm, other than Best Best & Krieger, to prosecute its code enforcement matters.

The law firm of Dapeer, Rosenblit & Litvak, LLP (“DRL”) consists of four partners and eleven associate attorneys working from two Southern California locations and providing code enforcement and prosecution services to over fifty cities and public agencies.

DRL has a long history of providing such services to public agencies and is committed to pursuing voluntary code compliance when possible. In its capacity as a city prosecutor, DRL oversees code violation investigations and make recommendations to staff regarding potential solutions; issues abatement and compliance letters to violators; obtains inspection and/or abatement warrants when necessary, seeks appointment of receivers when necessary, prosecutes code violations and initiates probation violation hearings when necessary. DRL works closely with city staff and also recommends permit and license conditions when future code enforcement violations are of concern. DRL also has experience providing code enforcement training to city staff.

Specifically, DRL has experience with the following types of matters: building codes, zoning codes, fire codes, property maintenance and health codes, receiverships, cost recover, and tax and license codes, among others.

The proposed agreement, attached here, allows DRL to serve as the City’s non-exclusive alternate city prosecutor when Best Best & Krieger has a conflict of interest. The agreement with DRL can be terminate with or without cause at any time by providing written notice. DRL will only work on those matters specifically assigned to it. DRL carries malpractice insurance of at least \$1,000,000 per claim.

FISCAL IMPACTS: DRL’s rates are as follows: \$215/hour for work related to administrative hearings; \$235/hour for work related to civil and criminal litigation; \$110/hour for paralegal support work.

ATTACHMENTS: Proposed Agreement; DRL firm resume

CITY COUNCIL

MEETING DATE: January 21, 2014 AGENDA ITEM: 7
ORIGINATING DEPT: Harbor CITY MANAGER: BA
PREPARED BY: Harbor Master DEPT HEAD: _____
SUBJECT: Waterside Permit Application – Catalina Coastal Tours

RECOMMENDED ACTION(S):

1. Grant the Waterside Permit modification as presented and require Mr. Carlisle abide by the standard list of conditions relating to Waterside Permit Applications including being restricted to Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months.
2. Grant the Waterside Permit Application as presented for the proposed rental of stationary equipment that will be delivered directly to visitors aboard their vessels in Avalon Harbor.

REPORT SUMMARY:

David Carlisle of Catalina Coastal Tours has held a Waterside Permit since January 2012. Mr. Carlisle has submitted a Waterside Project modification proposing to 1.) Add an additional vessel up to 35' and 2.) Rent stationary items such inflatable aqua lounges, floating lilly pads and Honda quiet generators to vessels moored in the Avalon area.

The applicant proposes up to six charters daily, seven days a week, year around from 9:00 a.m. to 8:00 p.m. Mr. Carlisle will base his operations at 105 Pebbly Beach Road and proposes to use Float 5 to pick up and drop off passengers for up to 10 minutes.

The proposed rental gear will be delivered directly to the renter's vessel at the mooring as well as picked up at the mooring.

ATTACHMENTS:

1. Waterside Permit Application
2. Waterside Permit Standard List of Conditions

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 8

ORIGINATING DEPT: Harbor

CITY MANAGER: BGA

PREPARED BY: Harbor Master

DEPT HEAD: _____

SUBJECT: Waterside Permit Application ~ Scotty's Sportfishing

RECOMMENDED ACTION(S):

Grant the Waterside Permit Application as presented and require Mr. Costa abide by the standard list of conditions relating to Waterside Permit Applications including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months for his charter business.

REPORT SUMMARY:

Scotty Costa submitted a Waterside Project Application proposing to use a 21' powerboat to conduct a 6 passenger or less charter for fishing and sightseeing trips. The vessel will use a mooring in the Avalon Boat Stand area during the summer season and a city mooring in the winter. The applicant proposes up to 3 trips daily, seven day a week year round available from 5:00am to 9:00pm. Mr. Costa proposes using pier docks and Float 5 for no more than 5 minutes each time to pick up and drop off passengers.

Impacts and Mitigations

Transportation / Circulation: Applicant proposes use of Pleasure Pier floats to load and unload passengers.

Mitigation:

Since Pleasure Pier area is heavily congested during certain times in the day during the summer, require applicant to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months.

ATTACHMENTS:

1. Waterside Permit Application
2. Waterside Permit Standard List of Conditions

CITY COUNCIL

MEETING DATE: January 21, 2014 **AGENDA ITEM:** 9
ORIGINATING DEPT: Harbor **CITY MANAGER:** BH
PREPARED BY: Harbor Master **DEPT HEAD:** _____
SUBJECT: Waterside Project Application – Catalina Adventure Sailing

RECOMMENDED ACTION(S):

Grant the Waterside Permit Application as presented and require Catalina Adventure Sailing abide by the standard list of conditions relating to Waterside Permit Applications including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock, whether they are using the catamaran or the tender to pick up their passengers.

When Catalina Adventure Sailing has any overnight guests while in Avalon waters, those accommodations be subject to 12% Transient Occupancy Tax.

REPORT SUMMARY:

Ryan Ramming submitted a Waterside Project Application proposing use of his 39' trimaran to conduct up to 6 passenger on-call charters from Avalon City Waters. This vessel will use Mr. Ramming's City leased mooring # H-20 in Hamilton Cove. The applicant proposes up to two charters daily from 8:00am to 8:00pm, seven days a week year around. Applicant proposes passengers will be picked up from the Pleasure Pier or Hamilton Cove for up to 15 minutes each time.

Impacts and Mitigations

Transportation / Circulation: Applicant proposes use of Pleasure Pier floats to load and unload passengers.

Mitigation:

Since the Pleasure Pier area is heavily congested during certain times in the day during the summer, require applicant to use Float 5 at the Cabrillo Mole on a year around basis at times when the Cross Channel Carriers are not using the dock

ATTACHMENTS:

1. Waterside Permit Application
2. Standard List of Conditions

CITY COUNCIL

MEETING DATE: January 21, 2014 **AGENDA ITEM:** 10
ORIGINATING DEPT: Harbor **CITY MANAGER:** BA
PREPARED BY: Harbor Master **DEPT HEAD:** _____
SUBJECT: Waterside Permit Application ~ Catalina Snorkeling Adventures

RECOMMENDED ACTION(S):

Grant the Waterside Permit Project Application as presented and require Catalina Snorkeling Adventures abide by the standard list of conditions relating to Waterside Permit Applications including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months for their charter business.

REPORT SUMMARY:

K&K Scuba Inc., dba Catalina Snorkeling Adventures, currently holds a Waterside Permit that only allows shore based snorkeling tours.

Catalina Snorkeling Adventures has submitted a Waterside Project Application requesting to add a 6 passenger, 24' power boat to conduct boat snorkel tours & excursions from Avalon Harbor. This vessel will use a mooring in Avalon Boat Stand in the summer and a City mooring during the winter. Catalina Snorkeling Adventures proposes up to four charters daily, seven days a week from 9:00 a.m. to 5:00 p.m. year around. Catalina Snorkeling Adventures will operate from their base of operation at 103 Pebbly Beach Road and proposes to pickup and drop off passengers from Float 5 on the Cabrillo Mole.

FISCAL IMPACTS:

The Avalon Municipal Code requires commercial enterprises emanating from inside Avalon Harbor to pay 7% of their gross as a Harbor Use Fee.

ATTACHMENTS:

- 1. Waterside Permit Application
- 2. Waterside Permit Standard List of Conditions

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 11

ORIGINATING DEPT: Harbor

CITY MANAGER: BH

PREPARED BY: Harbor Master

DEPT HEAD: _____

SUBJECT: Waterside Permit Application ~ Diversity Charters

RECOMMENDED ACTION(S):

Grant the Waterside Permit Application as presented and require Mr. Gorelczenko abide by the standard list of conditions relating to Waterside Permit Applications including being restricted to use Float 5 at the Cabrillo Mole at times when the Cross Channel Carriers are not using the dock during the period June 15 to September 30 and on cruise ships days throughout the winter months for his charter business.

REPORT SUMMARY:

Scott Gorelczenko submitted a Waterside Project Application proposing to use a 24' powerboat to conduct a 6 passenger or less charter for fishing, snorkeling and sightseeing trips. The vessel will use a mooring in the Avalon Boat Stand area during the summer season and a city mooring in the winter. The applicant proposes up to 3 trips daily, seven day a week year round available 24 hours a day. Mr. Gorelczenko proposes using Float 5 for no more than 10 minutes each time to pick up and drop off passengers.

ATTACHMENTS:

1. Waterside Permit Application
2. Waterside Permit Standard List of Conditions

CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 12

ORIGINATING DEPT: Harbor

CITY MANAGER: BH

PREPARED BY: Harbor Master

DEPT HEAD: _____

SUBJECT: Waterside Permit Application ~ Catalina Snorkel & Scuba Adventures

RECOMMENDED ACTION(S):

Grant the Waterside Permit Project Application as presented, contingent upon successful completion of/compliance with the following:

1. Payment of all fees owed to the City of Avalon, as outlined in the letters dated October 10, 2013 and November 13, 2013. (attached).
2. Obtainment of a physical place of business, other than the address on Pebbly Beach Road, where customers can sign waivers and receive snorkeling equipment.
3. Limiting all snorkeling tours to no more than ten (10) persons per certified guide.
4. Conducting all snorkeling tours away from the glass-bottom boat fairway.
5. Abide by the standard list of conditions relating to Waterside Permit Applications, to the satisfaction of the Harbor Master.

REPORT SUMMARY:

The City of Avalon has always required business operating in, or emanating from, Avalon Harbor to hold a Waterside Permit. On August 20, 2013, the City Council adopted an ordinance expanding the scope of the Waterside Permit ordinance to require all businesses and commercial enterprises operating in, or emanating from, *any* City waters to obtain a Waterside Permit.

Catalina Snorkel & Scuba Adventures has held a Waterside Permit since 2003 which allows scuba training dives in the swim area east of the South Beach stairs for up to 4 participants at a time.

As a result of the new Waterside Permit ordinance, Catalina Snorkel & Scuba Adventures has applied for a new Waterside Permit to conduct guided and/or instructional snorkeling and scuba tours in Lovers Cove and the Casino Dive Park. Guided snorkeling tours will take place in Lovers Cove and the Casino Dive Park, while scuba instruction will take place at the Casino Dive Park. Catalina Snorkel & Scuba Adventures is open 7 days a week and 12 months a year from 8:00 a.m. to 10:00 p.m.

Last year Catalina Snorkel & Scuba Adventures began meeting large groups of cruise ship passengers on the Green Pier every Tuesday. Customers filled out waivers on the Pier before being led to Lovers Cove where they would be given their snorkeling gear.

Catalina Snorkel & Scuba Adventures plans to operate from 22 Pebbly Beach Road (near the building supply at Pebbly Beach) and 400 Pebbly Beach Road, which is in the area of Lovers Cove.

In a letter dated April 16, 2013 (attached), the City ordered Catalina Snorkel & Scuba Adventures to immediately cease conducting business activities on the Pier and at Lovers Cove, as Catalina Snorkel & Scuba Adventures does not have a place of business on the Pier and Lovers Cove is not zoned for commercial use. Additionally, the City received multiple complaints, both before and after the April 16 letter was sent, that Catalina Snorkel & Scuba customers were infringing on space leased by other businesses while signing their waivers and making payments. As a result, Catalina Snorkel & Scuba Adventures has been advised it must obtain a space in an appropriately-zoned area at which to conduct routine daily business activities.

FISCAL IMPACTS:

The Avalon Municipal Code requires commercial enterprises emanating from outside Avalon Harbor to pay 4% of their gross as an Admission Tax and enterprises emanating from inside Avalon Harbor to pay 7% of their gross as a Harbor Use Fee.

ATTACHMENTS:

1. Waterside Permit Application
2. Photos of business being conducted on Green Pier
3. Waterside Permit Standard List of Conditions
4. Letters dated April 16, 2013, October 10, 2013 and November 13, 2013.

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CITY OF AVALON CITY COUNCIL

MEETING DATE: January 21, 2014

AGENDA ITEM: 13

ORIGINATING DEP: Planning and Building

CITY MANAGER: BH

PREPARED BY: Bryan Zuppiger CBO

SUBJECT: Ordinance to Adopt the 2013 State of California Building Standards Codes and Local Amendments

RECOMMENDED ACTION(S): Introduce and waive all further readings of An Ordinance Repealing and Reenacting Several Sections of Title 8 of the Municipal Code and Adopting the State Building Standards Codes as Modified.

REPORT SUMMARY: Approximately every three (3) years the State of California adopts and amends the latest nationally recognized model building code standards. Once the date of adoption is announced by the State of California Building Standards Commission this starts a six (6) month timetable for cities to add their own amendments through a local code adoption ordinance.

Pursuant to California Health and Safety Code sections 17958.5 and 17958.7, cities may adopt modifications to the uniform code which are consistent with the city's unique geography, climate, and/or topography. Accordingly, the City has modified Chapters 1, 4, 5, 7 and 8 of Title 8 of the City of Avalon Municipal Code to adopt local amendments for fee transparency, fire and life-safety and seismic adjustments.

FISCAL IMPACTS: None.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Without a local code adoption ordinance the City would adopt the State of California Building Code standards by default and forfeit its local building code standards amendments.

ALTERNATIVE ACTION(S):

1. No Action.
2. Modify the amendments proposed.
3. Add further amendments to the State of California Building Standards Codes 2013.

FOLLOW UP ACTION: Conduct a second reading of the ordinance and adopt a resolution to approve or deny the ordinance.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act.

ATTACHMENTS: Proposed Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AVALON REPEALING AND REENACTING SEVERAL SECTIONS OF TITLE 8 OF THE MUNICIPAL CODE AND ADOPTING THE STATE BUILDING STANDARDS CODES AS MODIFIED

WHEREAS, the State of California has adopted uniform standards for building codes pursuant to Health & Safety Code section 17922, set forth in Title 24 of the California Code of Regulations; and

WHEREAS, such uniform building code thereafter automatically becomes the building code of any city unless, within six months of publication of the uniform building code, a city adopts a modified version of such uniform building code; and

WHEREAS, cities are permitted to modify the uniform building code based on local climatic, topographical, or geological conditions pursuant to Health & Safety Code sections 17958.5 and 17958.7, provided findings supporting such modifications are filed with the State Building Standards Commission; and

WHEREAS, climatic and geological conditions unique to the City of Avalon ("City") including the City's lack of freshwater resources, the closeness of residences to one another, especially in the "flats" area of the City, and the City's location on an island, requires that the City make certain modifications to the uniform building code.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF AVALON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapters 1, 4, 5, 7, and 8 of Title 8 of the Avalon Municipal Code are hereby repealed in their entirety.

Section 2. Chapters 1, 4, 5, 7, and 8 of Title 8 of the Avalon Municipal Code are hereby reenacted to read as follows:

"Chapter 1 – Building Code

Section 8-1.01 Adoption of Building Code.

The California Building Code, 2013 Edition ("CBC"), shall be the City's Building Code for the erection, construction, enlargement, alteration, repair, movement, removal, demolition, occupancy, equipment, use, height, area, and maintenance of all buildings and other structures in the City, except as modified herein. The Building Code shall be on file in the City's Planning Department.

Section 8-1.02. Administrative Provisions.

The provisions of Part 1 of the CBC are hereby adopted as the administrative provisions for all of the State building standards adopted in Title 8 of the Avalon Municipal Code, and shall be the administrative, organizations, and enforcement rules and regulations for the technical codes set forth in Title 8, and shall be kept on file in the City's Planning Department.

Section 8-1.03. Building Official/Department.

The Building Official shall be appointed by the City Manager, or by the City Council if an independent contractor. The Building Official and his or her authorized representatives that enforce the codes set forth in this Title may be employees of the City or independent contractors.

Section 8-1.04. Penalties.

Any person, entity, firm, or corporation violating any of the provisions of the Building Codes as set forth in this Title shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Building Codes occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

Section 8-1.05. Work Commencing Before Permit Issuance.

CBC Section 109.4 – Work Commencing Before Permit Issuance is hereby amended to read as follows:

‘Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.’

Section 8-1.06. Refunds

CBC Section 109.6 Refunds is hereby amended to read as follows:

‘The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.’

Sec. 8-1.07. Automatic Fire Sprinkler Systems.

CBC Section 903.2 is hereby amended to read as follows:

'Where required, automatic fire sprinklers shall be provided as follows:

(a) Notwithstanding any provision in Section 903.2 of the CBC and Section 903.2 of the California Fire Code, approved automatic fire sprinklers shall be installed and maintained in accordance with the National Fire Protection Association's ("NFPA") Standard 13 throughout all new buildings as set forth.

(b) All buildings and structures constructed after the effective date of this Ordinance, regardless of when permitted or approved, shall be provided with an automatic sprinkler system installed in accordance with the applicable standards of the NFPA, of the rules and regulations of the State Fire Marshal and of this Code. In addition, an automatic sprinkler system shall be installed throughout an entire building or structure upon (1) the rehabilitation, remodeling or reconstruction of twenty-five percent (25%) or more of the gross square footage of an existing commercial or multiple unit residential building or structure; (2) the rehabilitation, remodeling or reconstruction of fifty percent (50%) or more of the gross square footage of an existing single family dwelling, except where the cost of the rehabilitation, remodeling or reconstruction is \$10,000 or less as determined by the Building Official using City-approved construction cost estimates; and (3) upon a change in the use of any building or structure, except in the case of a change in the use of a single family residence to use as a family day care home, in which case the provisions of Health & Safety Code section 1596 et seq. shall apply. Where a property owner constructs changes to an existing building without first obtaining permits for such work and no readily available, reliable source of information exists to verify whether the unpermitted work triggers the provisions of this Section, a rebuttable presumption that the installation of fire sprinklers is required under this Section shall arise. The property owner may request a hearing before the Building Official, whose decision shall be appealable to the City Manager, for the purpose of rebutting the presumption. The City Council shall promulgate rules and regulations by resolution setting forth examples and guidance for the application of this ordinance.'

Sec. 8-1.08. Minimum Roof Covering.

Table 1505.1 is hereby amended to read as follows:

**'TABLE 1505.1^a
MINIMUM ROOF COVERING CLASSIFICATIONS
TYPES OF CONSTRUCTION**

IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	B	B	B	B	B	B

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

a. Unless otherwise required in accordance with Chapter 7A.'

Sec. 8-1.09. Roof Coverings – Fire Retardant Coverings Required.

CBC Section 1505.1.3 is hereby amended to read as follows:

'1505.1.3 Roof Coverings Within All Other Areas.

(a) The entire roof covering of every existing structure where more than fifty percent (50%) of the total roof area is replaced within any one (1) year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class B.

(b) Section 1505.5 is amended by the deletion of the entire section.

(c) Section 1505.7 is amended by the deletion of the entire section.'

Sec. 8-1.11. Erosion Control and Water Quality Requirements Systems.

This section is hereby deleted from the Municipal Code.

Sec. 8-1.12. Erosion Control and Water Quality Requirement System Maintenance.

This section is hereby deleted from the Municipal Code.

CHAPTER 4 – CALIFORNIA ELECTRICAL CODE

Sec. 8-4.01. Electrical Code Adopted.

The California Electrical Code, 2013 Edition is hereby adopted except as modified herein. Said Code shall be kept on file in the Planning Department.

Sec. 8-4.02. Penalties.

Any person, firm or corporation violating any of the provisions of the Electrical Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Electrical Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

Sec. 8-4.03. Work Commencing Before Permit Issuance.

Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.

Sec. 8-4.04. Refunds.

The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.

CHAPTER 5 – PLUMBING CODE

Sec. 8-5.01. Plumbing Code Adopted.

The California Plumbing Code, 2013 Edition (“CPC”) is hereby adopted as the Plumbing Code for the City regulating the erection, installation, alteration, repair, relocation, replacement, maintenance or use of plumbing systems with the City. Said Code shall be on file in the Planning Department.

Sec. 8-5.02. Penalties.

CPC Section 102.5 Penalties is hereby amended to read as follows:

‘Any person, firm or corporation violating any of the provisions of the Plumbing Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Plumbing Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.’

Sec. 8-5.03. Investigation Fees: Work Without a Permit.

Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.

Sec. 8-5.04. Fee Refunds.

CPC Section 103.4.4 Fee Refunds is hereby amended to read as follows:

‘The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.'

Sec. 8-5.05. Salt Water Service Required.

(a) Any structure in the City utilizing toilets shall be equipped with a separate plumbing system piped to the toilets. Said separate plumbing system shall be installed and shall connect to the City's salt water system within one (1) year of salt water services being available within one hundred (100) feet of the parcel on which a structure is situated or constructed.

(b) Connection to the salt water distribution system may be deferred for additional one (1) year periods, not to exceed two (2) extensions, upon application to the City Council if the City Council makes one of the following findings:

(1) That such installation and connection to the City's system within one (1) year of service being available would result in economic hardship to applicant.

(2) That due to the geologic and topographic conditions of applicant's property, installation and connection to the City's system within one (1) year would result in undue hardship to applicant.

(3) That there are extensive structural changes required for the installation of a separate plumbing system in applicant's structure, and connection to City's system within one (1) year of services being available would result in undue hardship to applicant.

(c) Notwithstanding any extension of time granted by the City Council, the salt water service charges shall become due and payable one (1) year from the date salt water services are available within one hundred (100) feet from the parcel on which applicant's structure is located or will be constructed.

Sec. 8-5.06. Salt Water Service Effluent Water.

At such time as effluent water has been approved for distribution to the City, the same shall be utilized in lieu of salt water for the service set forth in this Chapter, and, further, at such time as structures equipped with separate salt water service piping shall be connected thereto.

Sec. 8-5.07. Salt Water Service Disconnections.

Effective July 1, 1974, all structures connected to the City salt water system shall remain connected thereto, and disconnections therefrom shall be prohibited.

CHAPTER 7 – CALIFORNIA MECHANICAL CODE

Sec. 8-7.01. California Mechanical Code Adopted.

The California Mechanical Code, 2013 Edition ("CMC") is hereby adopted and shall regulate and control the design construction, installation, quality of materials, location, operation and maintenance of the heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat producing appliances. Said Code shall be on file in the Planning and Building Department.

Sec. 8-7.02. Penalties.

Any person, firm or corporation violating any of the provisions of the Mechanical Code as set forth in this Title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the County Jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each separate day or any portion thereof during which any violation of the Mechanical Code occurs or continues shall be deemed to constitute a separate offense, and, upon conviction thereof, shall be punishable as herein provided.

Sec. 8-7.03. Investigation Fees – Work Without a Permit.

CMC Section 114.5 Investigation Fees – Work Without a Permit is hereby amended to read as follows:

'Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a penalty equal to double the permit fees. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate resolution.'

Sec. 8-7.04. Fee Refunds.

CMC Section 114.6 Refund is hereby amended to read as follows:

'The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than eighty percent (80)% of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.'

CHAPTER 8 – RESIDENTIAL CODE

Sec. 8-8.01. Adoption of Residential Code.

The California Residential Code, 2013 Edition (“CRC”) is hereby adopted as the Residential Code for the City with Appendix H and shall apply to those residential structures set forth therein. A copy of said Code shall be kept on file with the Planning and Building Department.

This shall be the City’s Residential Building Code for the erection, construction, enlargement, alteration, repair, moving, removal, demolition, occupancy, equipment, use, height, area and maintenance of all residential buildings in the City, except as modified herein.

Sec. 8-8.02. Refunds.

CRC Section R108.5 Refunds is hereby amended to read as follows:

‘The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than eighty percent (80%) of the permit fee when no work has been done under a permit issued in accordance with this Code.

The Building Official may authorize refunding of not more than eighty percent (80%) of the plan review fee when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before the plan is reviewed.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than ninety (90) days after the date of fee payment.’

Sec. 8-8.03. Penalties.

CRC Section R108.6 Work Commencing Before Permit Issuance is hereby amended to read as follows:

‘Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to double the permit fees as a penalty. In addition, when required by the Building Official, a special investigation shall be performed at a cost established by separate ordinance.’

Sec. 8-8.04. Climatic and Geographic Design.

Table R301.2(1) is revised to read as follows:

**‘Table R301.2(1)
Climatic and Geographic Design Criteria**

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY ⁱ	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDERLAYMENT REQUIRED ^h	FLOOD HAZARDS ^g	AIR FREEZING INDEX ^l	MEAN ANNUAL TEMP ⁱ
	Speed ^a (mph)	Topographic effects ^k		Weathering ^a	Frost line Depth ^b	Termite ^c					

Zero	85	Yes	D2 or E	Negligible	12-24"	Very Heavy	43	No	Ordinance 1119-13	0	60
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For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.

c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.

e. Temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.

f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.

g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of all currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended.

h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."

i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table "Air Freezing Index – USA Method (Base 32°)" at www.ncdc.noaa.gov/fpsf.html.

j. The jurisdiction shall fill this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index – USA Method (Base 32°)" at www.ncdc.noaa.gov/fpsf.html.

k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table.

Sec. 8-8.05. Automatic Fire Sprinkler Systems.

CRC Section R313.1 exception and R313.2 exceptions are deleted. The following will be added to R313.1 and R313.2:

'Any existing building shall retrofit with automatic fire sprinklers installed and maintained in accordance with N.F.P.A., 1' Standard 13 throughout when \geq fifty percent (50%) of a structure's square footage is substantially remodeled.'

Sec. 8-8.06. Preliminary Soils Report.

As required by Chapter 4 of the CRC, CRC Section R401.5 is added to CRC Chapter 4 to read as follows:

'The Building Official may require a geologic or geotechnical report or both, in accordance with the 2013 California Residential Code Section R401. This section shall include any new residential construction or additions to existing structures. As part of this evaluation, the Building Official shall require a site visit to determine the need for a geologic or geotechnical report or both. A fee shall be collected for each site visit.

A geologic report shall be prepared by a Certified Engineering Geologist licensed by the State of California. A geotechnical report shall be prepared by a registered Civil Engineer versed in soils engineering and qualified to perform this work. When both a geotechnical and geologic report are required, the two reports shall be coordinated before submission to the Building Official. The Building Official, at his or her discretion, shall obtain any technical support necessary to approve the report. Submitted reports shall contain a finding regarding the safety of the site from any variety of geologic hazard and a finding regarding the effect the proposed improvements, grading and/or construction and use of the site will have on the stability of the site and/or property outside the site. Any recommendation or action presented in the approved reports along with any conditions of approval shall be incorporated into the construction of site improvements. A fee shall be collected for the cost of review of the reports and any required addendums.'

Sec. 8-8.07. Fully Grouted Stem Walls.

CRC Section R403.1.3 is modified by deleting the exception for masonry stem walls and will read as follows:

'In Seismic Design Categories D₀, D₁ and D₂, masonry stem walls without solid grout and vertical reinforcing are not permitted.'

Sec. 8-8.08. Roofing Covering Materials.

CRC Section R902.1 is amended by revising it to allow only class A or B roofs as follows:

'R902.1 Roofing Covering Materials.

Roofs shall be covered with materials as set forth in Section R904 and R905. A minimum Class A or B roofing shall be installed in areas designated by this section. Classes A or B roofing required by this section to be listed shall be tested in accordance with UL 790 or ADTM E 108.

Exceptions:

- (a) Class A roof assemblies include those with coverings of brick, masonry and exposed concrete roof deck.
- (b) Class A roof assemblies also include ferrous or copper shingles or sheets, metal sheets and shingles, clay or concrete roof tile, or slate installed on noncombustible decks.'

Sec. 8-8.09. Roof Covering Within All Other Areas.

CRC Section R902.1.3 is amended by revising it to require a minimum Class B roof as follows:

'R902.1.3 Roof coverings within all other areas.

The entire roof covering of every existing structure where more than fifty percent (50%) of the total roof area is replaced within any one (1) year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering that is at least Class B.'

Sec. 8-8.10. Fire-Retardant-Treated Shingles and Shakes.

CRC Section R902.2, first paragraph is amended by revising it to allow only Class A or Class B treated wood roofs as follows:

'R902.2 Fire-retardant-treated shingles and shakes.

Fire-retardant-treated wood shakes and shingles are wood shakes and shingles complying with UBC Standard 15-3 or 15-4 which are impregnated by the full-cell vacuum-pressure process with fire-retardant chemicals, and which have been qualified by UBC Standard 15-2 for use of Class A or B roofs.'"

Section 3. Severability. The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance, or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance or the application of those provisions.

Section 4. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption.

Section 5. Exemption from California Environmental Quality Act. The City finds that the amendments to the Municipal Code, made pursuant to this Ordinance, are exempt from the California Environmental Quality Act ("CEQA") because they do not constitute a project within the meaning of CEQA Section 15378. The amendments herein have no potential for resulting in physical change to the environment, directly or indirectly. The City further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for

causing a significant effect on the environment. These amendments do not allow any new activities, but merely adopt updated language. The City Clerk shall be the custodian of record for the documentation supporting this action. Staff is hereby directed to file a Notice of Exemption with the Los Angeles County Clerk's Office within five (5) working days.

Section 6. The City Clerk is directed to certify the adoption of this Ordinance and cause the same to be published as required by law.

INTRODUCED at a Regular Meeting of the City Council of the City of Avalon, California, on the 21st day of January, 2014, and thereafter **ADOPTED** at a Regular Meeting of said City Council held on the ____ day of _____, _____, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Kennedy, Mayor

ATTEST:

Denise Radde, City Clerk