

Exhibit B

Proposed Municipal Code Amendments

Amend Chapter 4-17, San Leandro Marina, as follows:

CHAPTER 4-19

SAN LEANDRO-WATERWAYS

Article 1

General (Legislative History: Ordinance No. 71-38, 11/22/71; Ordinance No. 74-45, 8/ 12/74; Ordinance No. 82-030, 5/17/82; Ordinance No. 2009-008, 10/5/09 (Sections 4-19-135 4-19-150))

§ 4-19-100 DEFINITIONS

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

§ 4-19-110 PROHIBITIONS.

- (a) It shall be unlawful for any person within the City of San Leandro to swim, skin dive or water ski within the San Leandro Marina Basin, the Marina Park Lagoon (Laguna del Sol), and within 300 yards of any exterior bank of the San Leandro Marina Basin.
- (b) It shall be unlawful for any person to fish in or on the waters of San Francisco Bay within the City of San Leandro at any location designated and posted as prohibited for fishing as hereinafter provided.
- (c) It shall be unlawful for any person to anchor, moor, or berth a vessel, or to place, build, construct or maintain any water structure on the waters of the San Francisco Bay within the City of San Leandro.
- (d) It shall be unlawful for any person to live aboard a vessel anchored, moored, or berthed within the City of San Leandro.
- (e) It shall be unlawful for the owner, operator, or other person in control or custody of any vessel to ground or beach, or allow to be grounded or beached, a vessel along any shoreline or within the tide or submerged lands of San Leandro's waters, except in an emergency.
- (f) It shall be unlawful to discharge or permit to be discharged into City waters any refuse, treated or untreated sewage, human or animal waste, petroleum or petroleum matter, paint, varnish, or any other noxious chemical or foreign matter of any kind.

§ 4-19-120 FISHING.

The City Manager, or authorized representative, is hereby authorized and empowered to determine those locations at which fishing would be hazardous to the health and safety of the citizens of the City of San Leandro because of specific dangers resulting from the unsupervised nature of the area or from dangerous conflicts with other permitted activities in the area, and to post such areas as location prohibited for fishing.

§ 4-19-130 SPECIAL PERMIT.

SPECIAL PERMIT. The City Manager, or authorized representative, is hereby authorized and empowered to issue a special permit for the activities listed in Section 4-19-110 (a), (b), or (c) or Section 4-19-170 hereof within the areas where such activities are prohibited, upon the showing of the existence of an emergency or for purposes of special exhibitions or events.

§ 4-19-140 SPEED LIMIT.

- (a) It shall be unlawful for any person to operate a vessel at a speed in excess of five nautical miles per hour within the launching ramp basin and all points which are east of Mulford Point and within the Marina Basin or Marina Park Lagoon (Laguna del Sol) or entrances thereto.
- (b) Subsection (a) shall not apply to any boating activities specifically authorized by the City Manager or representative in connection with a City sanctioned special activity or event.

§ 4-19-150 FEES.

All fees for use of Marina facilities shall be established by the City Manager and a schedule of such fees shall be filed in the office of the City Clerk.

§ 4-19-160 EXCLUSION OF POWER BOATS FROM LAGOON.

Power vessels are prohibited from entering the Lagoon except when engaged in compass adjustment on the compass range, or when specifically authorized by the City Manager or representative.

§ 4-19-170 BOAT LAUNCH.

The boat launch and courtesy dock may be used for launching and retrieving vessels, picking up passengers, or other use authorized by permit. Vessels may moor to the courtesy dock during these activities subject to the restrictions listed.

- (a) No person, property, mooring lines, or other items shall obstruct the walking surface of the courtesy dock.
- (b) No vessel, personal watercraft, and/or water structure may moor to the courtesy dock for more than 15 minutes.
- (c) No vessel, personal watercraft, and/or water structure may moor to the courtesy dock in such a manner that the boat launch or waterway is obstructed.
- (d) Vessels, personal watercraft, and/or water structures that require state registration or federal documentation may not moor to the courtesy dock unless their registration and federal documentation is valid and displayed.
- (e) Vessels, personal watercraft, and/or water structures may only moor to the portion of the courtesy dock that is designated for said use.
- (f) Vessels, personal watercraft, and/or water structures that are moored to the courtesy dock may not have another vessel lashed, tied, or otherwise secured to them.

§ 4-19-180 DEPOSIT OF FEES.

Prior to launching a boating vessel via a trailer from the City Boat Launch, whether the vessel is motorized or not, any person shall have a current yearly launch permit or deposit the required daily launch fee in the payment kiosk. Yearly permit holders (year is from July 1—June 30) shall display the permit from the rearview mirror of their vehicle. Daily permit holders shall clearly display the permit

on the dashboard of their vehicle with the trailer's license plate number and the date of purchase noted on the permit.

§ 4-19-190 BOAT LAUNCH FEES.

The boat launch fee for the City Boat Launch shall be in conformance with the latest adopted City Fee Schedule.

§ 4-19-200 USE OF REVENUE.

The revenue raised by the collection of boat launch fees shall be paid into the treasury of the City of San Leandro and shall be used for costs of installation and maintenance of the launch ramp facility, costs of regulation of launching, and other related costs.

§ 4-19-210 AUTHORITY TO CITE.

The City Manager and designee(s) shall have the authority to issue citations for non-payment of the established boat launch fee.

§ 4-19-220 BEACHED OR GROUNDED VESSEL.

If a vessel is beached in an emergency or other mishap, the registered or legal owner or other responsible person shall immediately inform the Police Department and shall remove the vessel from its beached location within five (5) calendar days of its original beaching. Vessels in violation of this Section shall be subject to the marine debris provisions of the Harbor and Navigation Code Sections 550 through 552.

§ 4-19-230 VIOLATION, ENFORCEMENT, AND ABATEMENT.

Any violation of this Chapter is hereby declared to be a public nuisance. When the Enforcement Official determines that a vessel operated in violation of Chapter constitutes a public nuisance, the Enforcement Official may elect to proceed as outlined in Section 4-19-250 or Section 4-19-270 in addition to other enforcement remedies authorized by this Code or law.

Violation of this Chapter shall constitute a misdemeanor pursuant to section 1-12-200 of this Code.

A person violating the chapter may be subject to civil penalties, administrative citations, abatement pursuant to this Chapter, or injunctive or other judicial relief, in addition to any other remedy available to the City.

§ 4-19-240 AUTHORITY FOR ENTRY

The Enforcement Official or their authorized deputies or representatives may, with the consent of the occupant of a vessel, or, as to an unoccupied vessel, with the consent of the owner, or pursuant to a lawfully issued warrant or valid Court order, enter any vessel at any reasonable time to perform any duty imposed by this Chapter.

§ 4-19-250 ORDER TO ABATE

- a) When an Enforcement Official determines that a vessel constitutes a public nuisance, the Enforcement Official shall notify the responsible person(s) that the Enforcement Official has determined that a public nuisance exists and order the nuisance abated.
- b) The notice and order to abate shall contain the following:
 - 1. A description sufficient to identify the nuisance vessel.

2. A statement that the Enforcement Official has determined pursuant to this Chapter that the responsible person(s) is operating a vessel in violation of this Chapter and that the vessel constitutes a public nuisance.
 3. A statement ordering the responsible person(s) to abate the public nuisance condition, and specifying the manner in which the same shall be abated, and the period within which such abatement shall be accomplished.
 4. A statement advising that if the work to abate the nuisance is not commenced within the time specified, and diligently pursued until completion, the City may proceed to abate the nuisance and charge the costs thereof against the responsible person(s), and that such remedy shall be in addition to any other rights, remedies, or actions available to the City by reason of the same violation as described in the notice and order.
 5. A statement indicating whether the City has elected to seek, as a part of abatement costs, reasonable attorneys' fees incurred in abating the nuisance. Such notice shall also state that if the City elects to seek reasonable attorneys' fees, the prevailing party may be entitled to seek reimbursement of reasonable and necessarily incurred attorneys' fees, provided any such fees awarded against the City shall not exceed the amount of reasonable attorneys' fees incurred by the City.
 6. A statement advising the responsible person(s) of the right to appeal the notice and order to abate pursuant to Section 4-19-290; that such appeal must be filed with fourteen (14) calendar days from the date of service of the notice and order; and that failure to appear will constitute a waiver of all rights to an appeal and hearing to contest the determination of the nuisance and required abatement. The City may charge appellate fees as outlined in the master fees schedule.
- c) The notice and order shall be served on the responsible person(s) in one (1) or more of the following ways:
1. Any method set forth in Subsection 1-12-410 of this Code; or
 2. Where service pursuant to Subsection 1-12-410 cannot be made despite a diligent effort, a copy of the notice and order shall be conspicuously posted on the nuisance vessel.
- d) It is unlawful for the responsible person(s) to fail or neglect to comply with such notice and order of abatement. In the event that the responsible person(s) does not promptly proceed to abate said nuisance condition, as ordered by the Enforcement Official, the City may pursue abatement pursuant to this Chapter.

§ 4-19-260 AUTHORIZATION TO PROCEED WITH ABATEMENT

- a) If an appeal of the notice and order to abate the nuisance is not timely filed pursuant to Section 4-19-290, or if the Enforcement Officer has upheld the determination of nuisance and proposed abatement, or for abatement of a nuisance pursuant to Section 4-19-250, the Enforcement Official is authorized to cause the nuisance to be abated, subject to the provisions of this Section.
- b) The abatement work may be performed by the City's own employees or by independent contractors, or any combination thereof. Prior to commencement of the abatement work by

or on behalf of the City, the responsible person may abate the nuisance at his or her own expense.

- c) If the responsible person fails to consent to the City abating the nuisance, the City may seek a warrant to the extent legally required and proceed with the abatement.

§ 4-19-270 EMERGENCY ABATEMENT

- a) Whenever the Enforcement Official determines that a condition exists on any vessel in San Leandros's waters which is of such a nature as to be imminently dangerous to the public health, safety, or welfare or materially interferes with public navigation or passage, the Enforcement Official or his or her designee may summarily abate such nuisance without further authorization except as provided in this Section.
- b) No emergency abatement shall be undertaken unless the City Attorney or their designee has first approved the same.
- c) Reporting of costs of an emergency abatement under this Section shall be conducted pursuant to Section 4-19-280.
- d) A responsible person subject to emergency abatement may appeal the need for emergency abatement and/or the report of costs, after such abatement has occurred, pursuant to Section 4-19-260.

§ 4-19-280. REPORT OF COST

- a) The City shall keep an itemized account of the expense incurred by the City in abating each nuisance under this Chapter. Following completion of all abatement work, the Enforcement Official shall prepare a written report specifying the work done, the itemized and total cost of the work, a description of the subject vessel, and the name and address of the owner.
- b) Following completion of all abatement work, the City shall deliver to the responsible person(s) a notice accompanying the report of costs prepared pursuant to Subsection (a). Service of the notice and report of costs shall be made as provided in Subsection 1-12-410. The notice shall provide that the responsible person, must pay the City for the cost of abatement within thirty (30) days of service of the report of costs, or appeal the reasonableness of the costs within fourteen (14) calendar days of the date of service.

§ 4-19-290. APPEALS

Appeals under this Chapter shall be made and processed in accordance with Title 1, Article 4 of this code.

§ 4-19-300 JOINT AND SEVERAL LIABILITY.

All responsible persons are all jointly and severally liable for violations of this Chapter.

Amend Section 4-36-200, Limits on Eligibility of Tobacco Retailer's License, as follows:

§ 4-36-200. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER'S LICENSE.

- (a) No license shall be issued to authorize tobacco retailing at other than a fixed location.
- (b) No license shall be issued to authorize tobacco retailing at a location where Tobacco Retailers are prohibited or electronic cigarettes, electronic cigarette paraphernalia,

electronic cigarette products or tobacco products are prohibited from being distributed pursuant to the Zoning Code of the City of San Leandro.

- (c) No license shall be issued to a location or a tobacco retailer where prohibited pursuant to Section 4-36-600.

Amend Section 6-1-430, Overnight Parking Prohibited – Off-Street Parking of Certain Size Vehicles, as follows:

§ 6-1-430. PARKING OF CERTAIN VEHICLES.

- (a) **Purpose.** California Vehicle Code Section (CVC) 22507 permits the City to prohibit or restrict the stopping, parking, or standing of vehicles, including but not limited to vehicles that are six (6) feet or more in height. Under applicable state and federal law, the City is empowered to control access to and use of its property and public rights-of-way. The purpose of this Section of the San Leandro Municipal Code is to define the descriptions of oversized vehicles and regulate accordingly the stopping, parking, or standing on public streets, highways, rights-of-way, and municipal lots, regulate the parking of non-motorized vehicles, and regulate the parking of commercial vehicles in residential areas. The provisions of this Section shall not relieve any person from the duty to observe other and more restrictive provisions of the State Vehicle Code, or the regulations of this City, prohibiting or limiting the standing or parking of oversized vehicles in specified places or at specified times.
- (b) **Definitions.** Certain words and phrases used herein are defined as follows:
 - (1) “Commercial Vehicle” – As defined in CVC Section 260, as may be amended from time to time.
 - (2) “Emergency Vehicle” – As defined in CVC Section 165, as may be amended from time to time.
 - (3) “Motor Vehicle” – As defined in CVC Section 415, as may be amended from time to time.
 - (4) “Non-motorized Vehicle” – A vehicle other than a motor vehicle as defined by CVC Section 415, as may be amended from time to time.
 - (5) “Oversized Vehicle” – Any vehicle as defined in CVC Section 670 or a combination of motorized vehicle(s) and/or non-motorized vehicle(s), including any attached trailers, vehicle or loads thereon, which exceeds 22 feet in length, and/or 6 feet in width and 7 feet in height, except Emergency Vehicles. To determine the height, width or length of a vehicle defined in this Section, any extension to the vehicle caused by mirrors, air conditioners, or similar attachments allowed by Section 35109, 35110 or 35111 of the California Vehicle Code, as the same may be amended from time to time, shall not be included. Oversized Vehicle shall include, but is not limited to, any camp trailer, camper, fifth wheel travel trailer, house car,

mobilehome, trailer coach, as defined in California Vehicle Code Sections 242, 243, 324, 362, 396, 635, or successor statutes, or any recreational vehicle, as defined by California Health and Safety Code section 18010 or successor statute.

(6) “Street” – As defined in Title 5, Streets and Parks, of the San Leandro Municipal Code Section 5-1-100, Definitions.

(7) “Trailer” – As defined in CVC Section 630, as may be amended from time to time.

(8) “Vehicle” – As defined in CVC Section 670, as may be amended from time to time.

(c) Parking of Oversized Vehicles

(1) Subject to the exceptions in subsections (c)(1)(i) and (ii), no person shall park or let stand any Oversized Vehicle on a street, highway, alley, publicly owned parking lot, and/or where posted for more than two hours at any one location, or within two thousand six hundred forty (2,640) feet of the same location.

(i) Parking of an Oversized Vehicle is permissible when being actively utilized for a public construction or maintenance project, or other City event or project.

(ii) This Section shall not apply to an Oversized Vehicle if one or more of the following apply:

A. When such Oversized Vehicle is being loaded or unloaded and such additional time is reasonably required for such loading and unloading operations; or

B. When such Oversized Vehicle is parked in connection with, and in the aid of, the performance of a service to or on a property in the block in which such vehicle is parked, where such Oversized Vehicle is parked for a period reasonably necessary to complete such service.

(2) The City Manager may exempt an individual vehicle from the provisions of subsection (a)(1) of this section for owners of recreational vehicles upon request by the person in possession and control of such recreational vehicle of a reasonable need therefor. Such exemption shall expire at a specified time within 72 hours, except that the City Manager or designee may extend such exemption for no more than one additional period of 72 hours upon a request by a person in possession and control of such recreational vehicle that because of unusual circumstances, enforcement of said provision as to such recreational vehicle would cause undue hardship to such person. Such exemption and extension may be allowed 24 times per year, equating to 24 roundtrip permits per year for each San Leandro household. Vehicle owners requesting an exemption must register each request for exemption with the San Leandro Police Department. For purposes of this section, a recreational vehicle is as defined in Sections 18009.3 and 18010 of the California Health and Safety Code.

(3) The City Manager shall grant a variance from the provisions of subsection (a)(1) of

this section if, from the information presented in an application for such variance, the following facts are established:

- (i) The vehicle in question would otherwise be subject to the provisions of subsection (a)(1) of this section; and
- (ii) Such vehicle is the sole vehicle registered to persons residing at the premises in question and is customarily parked at such premises; and
- (iii) Such vehicle is unable to be parked off-street in compliance with the provisions of subsection (b) of this section.

A variance granted pursuant to these provisions shall remain valid only so long as the necessary facts established in order to obtain the variance continue to exist.

(d) Non-Motorized Vehicles: Except as provided herein, no non-motorized vehicle shall be parked or left standing upon any street, except:

- (1) Non-motorized vehicles owned, operated, or controlled by the City, so long as such non-motorized vehicles are parked or left standing for purposes reasonably related to official City business.
- (2) Notwithstanding anything to the contrary in this section, a fifth-wheel travel trailer as defined in Section 324 of the California Vehicle Code, a travel coach as defined in Section 635 of the California Vehicle Code, a vehicle designed for recreational purposes to carry persons or property on its own structure and so constructed as to be drawn by a motor vehicle, or any other trailer, whether attached or unattached to a motor vehicle, may be granted an exemption by the City Manager to park in a residence district, as defined by California Vehicle Code Section 515, under the same conditions applicable to motor vehicles as set forth in subsection (a)(2), of this section.

(e) Parking of Commercial Vehicles—Residential Areas:

- (1) No commercial vehicle having a manufacturer's gross vehicle weight rating of 10,000 pounds or more shall be parked or left standing upon any street in any Residence District as defined by California Vehicle Code Section 515, except:
 - (i) For such reasonable time in excess of two hours that may be necessary for the purpose of making pickups or deliveries of goods, wares, and merchandise from or to any building or structure or for the purpose of delivering materials to be used for repair, alteration, remodeling, or construction of any building or structure upon a restricted street or highway; or
 - (ii) For such reasonable time in excess of two hours that may be necessary when such vehicle is parked in connection with the performance of a service to or on a property in which such vehicle is parked; or

- (iii) For such reasonable time in excess of two hours that may be necessary time to make emergency repairs. No regulations adopted in this section shall apply to any vehicle owned by a public utility or licensed contract while necessarily in use in the construction, installation, or repair of any public utility.