

Attachment B

Redline-Strikethrough Version of Municipal Code Amendments

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

CHAPTER 4-19

SAN LEANDRO ~~MARINA~~ 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-~~100~~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. ~~It shall be unlawful for any person to be present beyond the security gates on any pier to which access is restricted by such gate, unless such person is a permittee whose vessel is berthed at such pier or is an authorized guest of such permittee, or unless such person is on official business of the City of San Leandro, the State of California, or the United States of America, or unless such person has been specifically authorized to enter such pier by the City Manager or representative.~~
- (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-~~105~~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-~~110~~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-~~100(a)~~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-~~115~~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.

~~§ 4-19-120 BERTHING OF VESSELS.~~

~~The berthing of vessels and other activities and operations in the Marina not herein regulated shall be in conformance with reasonable regulations established by the City Manager. Such regulations shall be based upon the maintenance within the Marina of sanitary and sightly conditions, orderliness, the preservation of public health, safety, peace, welfare, and the convenience of the public in the use of such area for the purpose for which it is established. One copy of such regulations shall be filed in the office of the City Clerk, and one copy shall be posted in a conspicuous place at the Marina. Violation of any regulations so established for nonpayment of fees shall be cause for revocation of any permit to moor a vessel within the Marina. The City shall have the right and power to remove or impound the vessel of any person violating said regulations of failing to pay required fees, at the sole cost and expense of the permittee.~~

§ 4-19-~~125~~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-~~130~~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-~~135~~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-~~140~~190 BOAT LAUNCH FEES.

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

§ 4-19-~~145~~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-~~150~~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 Leandro'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.

Delete Section 4.106.5 of the Exhibit attached to Section 7-5-625, "Local Amendments," as follows:

4.106.5 Reserved. ~~All-electric buildings.~~ New construction buildings shall comply with Section 4.106.5.1 or 4.106.5.2 so that they do not use combustion equipment or are ready to accommodate installation of electric heating appliances.

Delete Section 4.106.5.1 of the Exhibit attached to Section 7-5-625, "Local Amendments," as follows:

4.106.5.1. Reserved. ~~New construction.~~ All newly constructed buildings shall be all-electric buildings. Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of new construction shall be made by the local enforcing agency.

Exceptions:

~~1. Multifamily residential and residential mixed-use building projects that have applied for or received entitlements before the effective date of this ordinance may utilize combustion equipment.~~

~~2. Attached Accessory Dwelling Units may utilize combustion equipment.~~

~~3. If an applicant for a building project that does not qualify for an exception establishes that there is not an all-electric prescriptive compliance pathway for the building under the *California Building Energy Efficiency Standards*, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 4.106.5.2.~~

~~4. The City of San Leandro shall have the authority to approve alternative materials, design and methods of construction or equipment per *California Building Code* Section 104.~~

Delete Section 5.106.13 of the Exhibit attached to Section 7-5-625, "Local Amendments," as follows:

5.106.13 Reserved. ~~All-electric buildings.~~ New construction buildings shall comply with Section 5.106.13.1 or 5.106.13.2 so that they do not use combustion equipment or are ready to facilitate future electrification.

Delete Section 5.106.13.1 of the Exhibit attached to Section 7-5-625, "Local Amendments," as follows:

5.106.13.1. Reserved. ~~New construction.~~ All newly constructed buildings shall be all-electric buildings. Tenant improvements shall not be considered new construction. The final determination whether a project meets the definition of new construction shall be made by the local enforcing agency.

Exceptions:

~~1. Industrial buildings with Occupancy Classifications of Group F, Group H, or Group S may utilize combustion equipment.~~

~~2. Nonresidential buildings and mixed-use buildings containing kitchens located in a place of public accommodation, as defined in the California Building Code Chapter 2, may utilize fuel gas in on-site commercial cooking equipment and shall comply with Section 5.106.13.2.~~

~~3. Hotels and motels with eighty or more guestrooms may utilize fuel gas in on-site commercial clothes drying equipment. The applicant shall comply with Section 5.106.13.2.~~

~~4. If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building under the California Building Energy Efficiency Standards, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Efficiency Standards using commercially available technology and an approved calculation method, then the local enforcing agency may grant a modification. The applicant shall comply with Section 5.106.13.2~~

~~City of San Leandro shall have the authority to approve alternative materials, design and methods of construction or equipment per California Building Code Section 104.~~