

BY Juli Pachter
DEPUTYORDINANCE NO. 1476

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO REPEALING SECTIONS 9-1.12 AND 9-1.18 OF CHAPTER 1 OF TITLE 9 AND ADDING CHAPTER 6 TO TITLE 9 OF THE YOLO COUNTY CODE REGARDING VESSEL SANITATION AND MOORING

The Board of Supervisors of the County of Yolo, State of California, ordains as follows:

SECTION 1. Section 9-1.12 of Chapter 1 of Title 9 of the Yolo County Code is repealed.

SECTION 2. Section 9-1.18 of Chapter 1 of Title 9 of the Yolo County Code is repealed.

SECTION 3. Title 9 of the Yolo County Code is amended to add Chapter 6 to read as follows:

9-6.01 Title.

This Chapter shall be referred to as the Vessel Sanitation and Mooring Ordinance.

9-6.02 Purpose.

This Chapter adds definitions pertaining to vessels, establishes regulations to control vessel sanitation and pollution, and establishes vessel mooring and anchoring regulations.

VESSELS AND WATER SAFETY

9-6.03 Definitions.

Unless otherwise specified, the words and phrases used in this Chapter have the meanings given them in Chapter 5 of Division 3 (Section 650 et seq.) of the California Harbors and Navigation Code. The following words have the following meanings for purposes of this Chapter:

A. "Floating home" or "floating structure" means a watercraft or structure that has the following characteristics:

1. It is a stationary structure in, on, or above the water that is:
 - a. permanently grounded; or
 - b. supported by a flotation system and held in place by piling or mooring devices; or
 - c. placed on or otherwise affixed to a foundation, dock, piling, walkway, gangway, pier, barge, or other permanent structure.
2. It is incapable of being used for self-propelled navigation.
3. It is designed and built to be used, or is modified to be used, or is used, to serve purposes or provide services typically associated with a structure on or other improvement to real property. The term "floating home" or "floating structure" includes a structure that is used as

a residence, place of business or office with public access, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage or parking facility, mining platform, or similar facility or structure represented as such.

Incidental or limited movement of a structure upon water or resting partially or entirely on the bottom does not preclude the structure from being classified as a floating home or floating structure for purposes of this Chapter. Registration of a structure as a vessel with the California Department of Motor Vehicles does not preclude the structure from being classified as a floating home or floating structure for purposes of this Chapter. Floating homes and floating structures are expressly excluded from the definition of the term "vessel" provided in this section.

B. "Garbage" has the meaning set forth in Health and Safety Code section 117475.

C. "Houseboat", as used in this Chapter, means a vessel that has either a pontoon or flat-bottomed hull configuration, and has a permanent enclosed superstructure with sleeping and/or cooking facilities.

D. "Marine Sanitation Device" (MSD) is any Type I, II or III device approved under 33 Code of Federal Regulations section 159.3 for the treatment or storage of sewage or waste from sewage.

E. "Moor" means to make fast, tie up, or otherwise secure a vessel other than by anchoring. "Moor" includes to attach to a dock, pilings, spud, walkway, gangway, pier, or other structure or to tie up to any actual object or feature.

F. "Permitted Dock" or "Permitted Marina" is any structure, floating platform or building, attached to land or floating on piles driven into the bottom of the waterway, designed for and used as a place to moor a vessel, and has received a County Use Permit or similar entitlement for that use.

G. "Seaworthy" means;

1. Capable of traveling on the waters within Yolo County under its own sailing or mechanical propulsion system and is able to maneuver and rescue itself should that be required to prevent it from sinking, grounding or becoming awash; or

2. Not in a deteriorated condition that would create a likelihood the vessel may sink or become awash; and,

3. Not creating a pollution or sanitation hazard should the vessel sink or become awash.

4. Not in a deteriorated condition that includes, but is not limited to, structural damage such as rot or delamination, or is taking on water and cannot maintain floatation.

H. "Sewage" has the meaning set forth in Harbors and Navigation Code section 775.5(d).

I. "Shore" means that part of the land in immediate contact with a waterway, including the area between high-tide and low-tide marks or between high-water and low- water marks.

J. "To anchor" means to secure a vessel within a waterway by dropping an anchor, anchors

or other ground tackle including blocks or pulleys, chain, cable or other types of anchor rode to the bottom of the waterway.

K. "Transitory vessel" means a vessel that is not regularly and lawfully moored or renting a mooring at a permitted marina or dock in Yolo County, or is transiting or vacationing in the waters of Yolo County, including trailered recreational vessels.

L. "Vessel" means every description of watercraft used or capable of being used as a means of transportation on the water, including a seaplane on the water. Exceptions are watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled. A "vessel" includes a barge, a dredge, a towboat and its tow, and a houseboat.

M. "Waterway" means any water, lake, river, creek, canal, lagoon, bay, inlet, slough, channel, or tributary situated within the county, or any water area situated within the county providing access for vessels to move from one place to another.

9-6.04 Prohibitions.

A. No person owning, possessing, or in charge of any vessel, or property owner or manager where a vessel is attached, shall permit the vessel to be operated or located in violation of this Chapter.

B. All vessels are subject to all applicable provisions of this Chapter and to all other applicable provisions of county ordinances and state and federal law.

C. A floating home or floating structure is not allowed at any location in the County unless it meets all applicable zoning, building, health, sanitation, and other applicable provisions of this Chapter, and meets all applicable provisions of state and federal law.

D. Every vessel entering Yolo County waterways must be registered and numbered as provided by the laws of the state of California or any other state, or documented under the laws of the United States. All vessels must remain currently registered by the state of California or any other state, or documented by the United States while located in Yolo County waterways.

9-6.05 Enforcement.

A. The first three violations of this Chapter by any person shall be punishable as an infraction. The fourth and subsequent violations of this Chapter by that person shall be punishable as misdemeanors or infractions, at the District Attorney's discretion. The person is guilty of a separate offense for each and every day on which a violation of this Chapter occurs.

B. Public Nuisance. Violations of this Chapter are a public nuisance and the county counsel is authorized to prosecute an action in a court of competent jurisdiction to enjoin the violations and recover costs.

C. Enforcement. In addition to any other remedies allowed by law, any person who violates any provisions of this chapter is subject to criminal sanctions, civil actions, and administrative penalties.

D. Immediate Threat to Public Health and Safety. Nothing in this Chapter is intended to alter, affect or restrict the right of the Sheriff to remove any vessel to address an immediate threat to public health and safety or emergency condition or situation.

E. The Sheriff, code enforcement officer, or any peace officer is authorized to enforce this Chapter.

F. All notices issued by the Sheriff, code enforcement officer or peace officer pursuant to this Chapter shall be transmitted to the registered vessel owner by first class mail and shall be attached to the vessel in a conspicuous place so as to be easily observed by the person in charge of the vessel or by the agent of the owner, or by personal service by the Sheriff, code enforcement officer, or peace officer.

G. Vessel owner(s) shall be responsible to pay any costs incurred by the County enforcing provisions of this Chapter.

9-6.06 Vessel Removal.

A. If the Sheriff determines a vessel is moored or anchored in violation of this Chapter, the Sheriff may issue a Notice to Remove. The notice will provide a date, 48 hours from the date the Notice to Remove is issued, by which the vessel's owner must remove the vessel from the waterway. Removal requires that the vessel be moved for a minimum of 24 hours and at least 500 yards beyond the County line.

B. If the vessel's owner does not remove the vessel in accordance with subsection A, or cause the vessel to be removed after receiving a Notice to Remove, the Sheriff may remove and store the vessel. The vessel may be recovered upon proof of ownership and payment of all costs incident to recovery, movement, impounding, and storage, or may be disposed of in accordance with Yolo County Code section 9-6.07.

9-6.07 Vessel Disposition.

A. A vessel removed and stored by the Sheriff in accordance with section 9-6.06 above may be disposed of in accordance with the provisions of Article 4 of Chapter 2 of Division 3 of the Harbors and Navigation Code (Boaters Lien Law). The owner of the vessel will be civilly liable to the County for all costs, fees, damages and expenses incurred by the County in removing, storing and selling the vessel.

B. Wrecked and abandoned vessels are subject to disposal in accordance with Chapter 3 of Division 3 of the Harbors and Navigation Code.

9-6.08 Charges.

Charges imposed by the County for services under this Chapter, will include the recovery, movement, impounding, and storage of vessels, and will be in accordance with the cost recovery rate of the department(s) providing these services.

9-6.09 Sanitation and Pollution.

A person shall not do any of the following:

- A. Place, deposit or dump any garbage on or adjacent to the bulkheads, docks, piers, gangways, or wharves of any waterway where the material is likely to be washed or otherwise deposited into a waterway by tides, floods, storms, waves, or accidental displacement;
- B. Discharge or allow the release of any raw or untreated sewage or oily waste water from any vessel in the waters of Yolo County;
- C. Cause any mooring line, water hose, electrical cable or other service line to extend across a dock, pier, or gangway so as to create a hazardous condition that could cause accident or injury; or cause or allow any object such as ladders, tools, canvas, vessels, boat gear, or other materials or equipment to obstruct free passage along any dock, pier, or gangway; or create any other hazardous condition on a dock, pier, or gangway that could cause accident or injury; or
- D. Leave or store on any dock pier or gangway, or wharf of a waterway any empty tanks or containers previously used for flammable or combustible liquids, unless free from explosive vapors, except that empty safety containers may be kept in storage.

9-6.10 Sunken Vessels.

- A. Whenever a vessel is wrecked or sunk in a waterway, accidentally or otherwise, the owner shall immediately notify the Sheriff and United States Coast Guard and mark the vessel's position by a buoy or beacon by day, and by an electric light visible for at least 100 yards by night, and maintain such markings until the obstruction is removed. The owner of such a wrecked or sunken vessel shall immediately commence removal of the vessel and prosecute the removal diligently to completion, and the failure to do so shall constitute an abandonment of the vessel and subject the vessel to removal and disposition in accordance with the provisions of Section 9-6.06 and Section 9-6.07. No person shall return a wrecked or sunken vessel to its berth within the waterway without the prior approval of the Sheriff. The owner of a sunken or wrecked vessel shall be liable for any damage which results to County property or other vessels in the waterway.
- B. In accordance with subdivision A, a vessel that is not properly marked, or a vessel where removal does not commence immediately and is not completed within 14 days, is subject to removal, storage, and disposal in accordance with Yolo County Code section 9-6.06 and Section 9-6.07.

MOORING AND ANCHORING REGULATIONS

9-6.11 General Restriction.

- A. Mooring and Anchoring. Except as otherwise permitted by this Chapter, no person shall moor, anchor, ground, place, or otherwise locate any vessel in any waterway for more than 96 consecutive hours.
- B. Permitted Mooring Locations. Notwithstanding subsection A of this section, a vessel may be moored at the following locations to the extent permitted by law:
 - 1. A marina, provided the marina and the vessel are in compliance with all applicable laws;or

2. A boat slip or berth, provided the boat slip or berth and the vessel are in compliance with all applicable laws; or

3. A wharf, dock, or pier, provided the wharf, dock, or pier and the vessel are in compliance with all applicable laws and the property owner, or owner's authorized representative, has consented to the vessel being moored at the location.

C. Vacating the Waterway. Upon notice of a violation of subsection A of this section, the owner or operator shall either move the vessel to a location described in subsection B of this section or leave the County of Yolo waterway for at least 24 consecutive hours, and at least 500 yards beyond the County line, before returning the vessel to the waterway.

D. Services. No person shall furnish or supply electrical services, natural gas, fresh water, or a sewer connection to any vessel anchored or moored in violation of this section.

E. Lights. No person shall anchor or moor a vessel between sunset and sunrise without displaying lights as prescribed by federal and state laws, rules, and regulations regarding anchor lights in inland waters.

F. Buoys. No person shall moor a vessel at a buoy in violation of California Harbors and Navigation Code Sections 307 and 308.

G. Exemptions. Subsection A of this section does not apply to any vessel operated by the United States of America, the state of California, or any governmental entity, its agencies, or instrumentalities, or any vessel operating on behalf of any of these entities in connection with the dredging of any waterway, channel, harbor, or marina; flood protection projects; or levee repair, maintenance, or construction.

9-6.12 Vessel Requirements.

A. A vessel may be moored in a marina if all of the following requirements are met:

1. The vessel is in a seaworthy condition in accordance with Yolo County Code section 9-6.03(G), and poses no threat of pollution or sanitation hazard;

2. The vessel is capable of self-propelled navigation in accordance with Yolo County Code section 9-6.03(G), and poses no threat of pollution or sanitation hazard;

3. The vessel is moored in compliance with all applicable permit conditions imposed on the marina;

4. The owner permits on-site inspections of the vessel for compliance with this Chapter, including that it is in a seaworthy condition in accordance with Yolo County Code section 9-6.03(G), by law enforcement or other County personnel during reasonable hours; and

5. The vessel is moored in compliance with all applicable state and federal laws.

B. A vessel may be moored at a permitted dock to the extent permitted by law if all of the following requirements are met:

1. The vessel is in a seaworthy condition in accordance with Yolo County Code section 9-6.03(G), and poses no threat of pollution or sanitation hazard;

2. The vessel is capable of self-propelled navigation in accordance with Yolo County Code section 9-6.03(G), and poses no threat of pollution or sanitation hazard;

3. The owner permits on-site inspections of the vessel for compliance with this Chapter, including that it is in a seaworthy condition in accordance with Yolo County Code section 9-6.03(G), by law enforcement or other County personnel during reasonable hours;

4. The vessel does not obstruct navigation; and

5. The vessel is moored in compliance with all applicable state and federal laws.

9-6.13 Services.

No person shall furnish or supply electrical service, natural gas or fresh water, or provide a sewer connection, to any vessel moored or anchored in violation of this Chapter.

9-6.14 Equipment.

A. Any vessel moored or anchored shall be moored or anchored in such a manner to prevent it from dragging anchor, becoming adrift or breaking away from its mooring which may result in a threat of pollution or sanitation hazard.

B. Mooring lines at docks and marinas shall be installed in a manner that will maintain a moored vessel within its berth and prevent the vessel from posing a safety hazard to the berth or to adjoining vessels.

9-6.15 Administrative Civil Penalties.

A. Imposition. Pursuant to Government Code section 53069.4, and in addition to any other remedies provided by County Code or state law, there is imposed an administrative civil penalty of up to \$5,000 dollars for each separate violation of this Chapter. Notice of any administrative civil penalty shall be served and proof of service shall be made in the same manner as provided in Subsection 9-6.05(F) of this Chapter.

The Sheriff shall determine and notify the violator of the time within which the violator must correct or remedy the violation. The violation notice shall state that an administrative civil penalty will be imposed if the violation is not remedied or corrected within the time stated. The notice shall state that any administrative civil penalty may be appealed and administratively reviewed by a hearing officer.

B. Administrative Review. Enforcement of the administrative civil penalty imposed by the Sheriff shall be by written order issued by the hearing officer following notice and an opportunity for hearing. Procedures concerning notice, conduct of the hearing, and service are provided below. The order of the hearing officer concerning the administrative civil penalty shall be in writing resolving the essential issues raised and confirming, amending or rejecting the administrative civil penalty imposed by the Sheriff. In reaching a decision concerning any administrative civil penalty, the hearing officer shall be guided by factors including, but not limited to: the danger to public health, safety and welfare represented by the violation, recidivism, and

any economic benefit associated with non-compliance.

C. A hearing officer designated by the County Administrator shall conduct those administrative hearings required by this section.

1. Hearings--Generally. At the time set for hearing, the hearing officer shall hear the testimony of the enforcing department(s), the owner, and other competent persons respecting the condition of the vessel, and other relevant facts concerning the matter.

2. Record of Oral Evidence at Hearing. The proceedings at the hearing may be reported by a tape recorder.

3. Continuances. The hearing officer may, upon request of the owner of the vessel or upon request of the enforcing department, grant continuances from time to time for good cause shown, or upon his/her own motion.

4. Oaths; Certification. In any proceedings under this chapter, the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

5. Evidence Rules. California Government Code section 11513, subsections (a), (b) and (c), as presently written or later amended, shall apply to hearings conducted under this Chapter.

6. Rights of Parties. Each party may represent themselves, or be represented by anyone of their choice who is lawfully permitted to do so.

7. Official Notice. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the County or any of its departments.

8. Inspection of Vessels. The hearing officer may inspect the vessel involved in the hearing prior to, during or after the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The hearing officer shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom.

d. Each party then shall have a right to rebut or explain the matters so stated by the hearing examiner either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.

9. Form and Contents of Decision; Finality of Decision. If it is shown by a preponderance of the evidence that the condition of the vessel violates the provisions of this Chapter:

a. The decision of the hearing officer shall be in writing and shall contain findings of

fact and a determination of the issues presented. The decision shall also require the owner to commence abatement of the nuisance not later than ten days after the issuance of the decision, and that the abatement be completed within such time as specified by the hearing officer, or in the alternative, within the time designated by the Sheriff. The decision shall inform the owner that if the nuisance is not abated within the time specified, the nuisance may be abated by the County in such manner as may be ordered by the Sheriff and the expense thereof made a lien on the property involved.

b. The decision shall also inform the owner that the time for judicial review is governed by the California Code of Civil Procedure section 1094.6. Copies of the decision shall be delivered to the parties personally or sent to them by certified mail. The decision shall be final when signed by the hearing officer.

10. Service of the Hearing Officer's Decision. Upon issuance of the decision, the Sheriff shall post a copy the decision conspicuously on the vessel involved, if possible, and shall serve a copy on the record owner, in the same manner as set forth in Section 9-6.05(F), and one copy shall be served on each of the following, if known to the Sheriff or disclosed from official public records: the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the vessel.

11. Judicial Review. The manner of contesting the final order of the hearing officer concerning any administrative civil penalty is governed by Government Code section 53069.4, or any successor provision thereto. Service of the notice of appeal authorized by Government Code section 53069.4 on the County shall be served upon the Clerk of the Board of Supervisors.

12. Separate Offense for Each Day of Violation/Continuing Violation. Each person violating this Chapter shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by any such person. Any violation which persists for more than one day is deemed a continuing violation for the purpose of this chapter.

13. Collection. In addition to all remedies contained in this Chapter, the County may pursue all reasonable and legal means in collecting those sums authorized and due.

SECTION 4. The Clerk of the Board will publish the Ordinance codified in this Chapter as required by law. The Ordinance codified in this Chapter shall take effect 30 days after passage.

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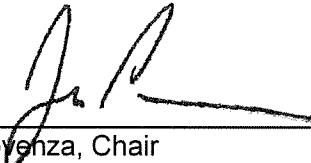
PASSED AND ADOPTED by the Yolo County Board of Supervisors at its regular meeting on November 22, 2016, by the following vote:

AYES: **Chamberlain, Villegas, Saylor, Rexroad, Provenza.**

NOES: **None.**

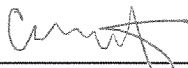
ABSENT: **None.**

ABSTENTION: **None.**



Jim Provenza, Chair
Yolo County Board of Supervisors

Approved as to form:
Philip J. Pogledich, County Counsel

By: 

Carrie Scarlata,
Asst. County Counsel

Attest: Julie Daehler, Deputy Clerk
Yolo County Board of Supervisors

By: 

Deputy (Seal)

The seal of the Yolo County Board of Supervisors is circular. It features a five-pointed star in the center, surrounded by a wreath. The words "BOARD OF SUPERVISORS" are written in a circle around the star, and "YOLO COUNTY, CAL." is written at the bottom.