

SUMMARY OF PROPOSED CHANGES TO RICHARDSON BAY REGIONAL AGENCY CODE

TITLE 1 GENERAL PROVISIONS

Chapter 1.04 - General Provisions:

Chapter 1.04 has been updated to remove what was Section 1.04.010 (Preamble), renumbering the Chapter, and adding various new sections.

Sections 1.04.010 (Definitions) –

This sections now includes more definitions to cover additional terms introduced within the Code and provides clarifications and revisions of existing terms.

Sections 1.04.040 (General Penalties) –

This section has been updated to be consistent with Government Code section 25132, prescribing that any violation of the Code may be prosecuted as an infraction and setting fines for infractions and other violations of the Code.

Sections 1.04.050 (Administrative Citations and Fines) –

New section. This section allows an Enforcement Officer to issue administrative citations and fines for violation of the Code. It provides for the implementation of this authority and includes a process for appealing administrative citations, including providing for a hearing of such appeals.

Sections 1.04.060 (Hardship Waiver) –

New section. This section allows for any person fined under Section 1.04.050 or 1.04.060 to receive a waiver reducing the amount of the fine if the person can show that payment of the fine would impose an undue financial burden and they have made an effort to comply after the first violation.

TITLE 2 ADMINISTRATION

Chapter 2.04 - Harbormaster:

This Chapter contains only one section, which has been updated to clean up the existing provisions, provide internal cross-references, and clarify the Harbormaster's role.

TITLE 3 VESSELS

Chapter 3.04 – Anchoring, Mooring, and Beaching Vessels:

This Chapter has been updated to include sections on abandoned vessels, unseaworthy vessels, and the relocation of vessels, among other changes to the existing Chapter. The nuisance abatement authority and procured added in Title 6 will be available for enforcement of the regulations here in Title 3.

Section 3.04.010 (Permits, Anchoring, and Mooring) –

This section has been updated to clarify the Agency's 72-hour anchoring rule, which is the foundation of policy regarding anchorouts. After 72 hours of being anchored, a vessel must leave Richardson Bay for at least 7 days before temporarily anchoring again. Various other portions of this section were deleted where no longer relevant because there are no private moorings in Richardson's Bay.

Section 3.04.020 (Residential Use of Vessels Prohibited) –

This section has been updated to provide that the Harbormaster may issue permits for temporary residential use at RBRA-owned moorings, at their discretion.

Section 3.04.060 (Sunken and Abandoned Vessels) –

New section. This section provides that no vessel may sink or become beached or aground without prior permission from the RBRA. If this prohibition is violated, the owner must immediately remove the vessel at their expense. If the owner fails to remove the vessel within 10 days, RBRA is authorized to remove the vessel at the owner's expense. If the vessel is not claimed after removal, RBRA may sell or destroy the vessel.

Section 3.04.070 (Unseaworthy Vessels) –

New section. This section provides that unseaworthy vessels are a public nuisance and may not be moored. It authorizes RBRA to remove such vessels as marine debris pursuant to Harbors and Navigation Code section 522. Vessels that fail to prove safe operation within 60 days may be deemed marine debris and removed and disposed of by the RBRA.

Section 3.04.080 (Relocation of Vessels) –

New section. This section provides that RBRA may remove, at the owner's expense, moored or docked vessels that the Harbormaster deems hazardous or a hindrance to operations.

TITLE 4 VESSEL TRAFFIC REGULATIONS

Chapter 4.04 – Anchoring, Mooring, and Beaching Vessels:

This chapter has been updated for consistency with the Marin County Code

Section 4.04.010 (Regulations Concerning Speed and Safety) –

This section has been updated to specify that Personal Water Craft are not allowed within Richardson Bay, consistent with the County Code.

Chapter 4.05 – Audubon Sanctuary

New chapter. This chapter regulates vessel activity within the Audubon Sanctuary, a portion of RBRA waters.

Section 4.05.010 (Vessel Restrictions) –

New Section. This section allows RBRA to enforce certain Sanctuary rules by providing that no vessels may anchor within the Audubon Sanctuary at any times, and specifying Sanctuary's closure period.

Chapter 4.06 – Vessels Impound

No substantive changes

TITLE 5 ENVIRONMENTAL PROTECTION

This Chapter has been updated to codify protections for eelgrass.

TITLE 6 NUISANCE CODE

Chapter 6.04 – Nuisance Abatement

This chapter has been updated to comply with applicable state law, which has changed since the Code was enacted in 1991. Additional provisions have been added to broaden the definition of a nuisance and provide procedures for RBRA to abate nuisances. These provisions will be a key tool for implementing policy regarding anchorouts.

Sections 6.04.020 (Nuisance Defined) and 6.04.030 (Determination of Public Nuisance)–

This section has been updated to broaden the definition of a nuisance to include any violation of the Code and authorizes an Enforcement Officer (generally, the Harbormaster or their designee) to inspect vessels and determine when a nuisance exists.

Section 6.04.040 (Notice and Order to Abate Nuisance) –

This section is an update of previous Section 6.04.050 and provides the procedure to notify the owner of a vessel (or other responsible party) that RBRA has determined the vessel is a nuisance and order the owner/responsible person to fix (“abate,” in the legal language) the nuisance condition. The notice and order must be served owner and any other responsible party and posted on the vessel.

Section 6.04.050 (Report of Costs) –

This section is an update of previous section 6.04.110. It provides for RBRA to charge the responsible person the costs of nuisance abatement by keeping an itemized expense account and serving it on that person.

Section 6.04.060 (Appeals of Notice and Order to Abate Nuisance and Report Costs) –

New section. This section provides the procedures for hearing an appeal of the notice and order to abate nuisance and report of costs. The RBRA Board may designate an independent Hearing Officer to hear appeals. The Hearing Officer may inspect the subject vessel with adequate notice and opportunity for the parties to be present. The Hearing Officer shall hear and rule on the appeal and issue a final decision. The Hearing Officer's final decision may be subject to judicial review.

Section 6.04.070 (Authorization to Proceed with Abatement) –

New section. This section authorizes RBRA to undertake abatement itself, with the responsible person's consent or, if needed, with a warrant. RBRA may initiate abatement only if the initial abatement order is not appealed or if the hearing officer in an appeal decides in favor of RBRA.

Section 6.04.080 (Emergency Abatement) –

This section is an update of previous section 6.04.100. This section is updated to provide immediate abatement of a nuisance that is imminently dangerous to the public health, safety, or welfare or materially interferes with public travel or passage. Before emergency abatement, RBRA's attorney must approve such abatement in writing. Costs are to be charged to the responsible person, subject to an appeal under the same procedures as above.