

SCC NO. SCC-1410

AN ORDINANCE RELATING TO VESSEL SANITATION AND MOORING

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

SECTION 1. Chapter 6.42, Sections 6.42.010 through 6.42.190, is hereby added
to Title 6 of the Sacramento County Code to read as follows:

6.42.010 Title.

These regulations shall be known as the "VESSEL SANITATION AND
MOORING."

6.42.020 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

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

H. "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.

I. "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.

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

K. "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.

L. "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.

M. "Seaworthy" means;

1. Capable of traveling on the waters within Sacramento 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.

6.42.040 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.

6.42.050 Enforcement.

- A. The County may enforce this Chapter by any remedy allowed under this Code or any other remedy allowed by law, except that violations of state or federal law incorporated into this division shall be enforced as provided for under the applicable law.
- B. The Sheriff, Environmental Management Department (EMD), Code Enforcement Officer, or any peace officer is authorized to enforce this Chapter.
- C. All notices issued by the Sheriff, EMD, 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, EMD, Code Enforcement Officer, or peace officer.
- D. Any vessel not in compliance with any sections of this Chapter, when enacted, shall have thirty (30) days to comply with the provisions of this Chapter.
- E. EMD will bill the vessel owner(s) for any costs incurred enforcing provisions of this Chapter.

6.42.060 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, ten days from the date of violation, by which the vessel's owner must remove the vessel from the waterway.
- 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 Sacramento County Code section 6.42.070.

6.42.070 Vessel Disposition.

A. A vessel removed and stored by the Sheriff, in accordance with section 6.42.060, 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.

6.42.080 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.

6.42.090 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 Sacramento 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;

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.

6.42.100 Sunken Vessels.

A. Whenever a vessel is sunk in a waterway, the owner must mark the vessel immediately in accordance with state laws.

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 fourteen (14) days, is subject to removal, storage, and disposal in accordance with Sacramento County Code section 6.42.060.

MOORING REGULATIONS

6.42.110 General Restriction.

A. Except as otherwise permitted by this Chapter, no transitory vessel shall be moored, anchored, grounded, placed, or otherwise located in any waterway of Sacramento County for a period exceeding fourteen (14) days without a permit issued by the Sheriff. This fourteen (14) day period is consecutive and will commence upon

written notice by the Sheriff. Prior to the issuance of any permit under this Chapter, owners or operators of vessels shall allow the Sheriff or his designee to board and inspect the onboard sewage reception system and place a dye tablet within the sewage reception system to determine compliance with this chapter.

B. With a permit as provided in this Chapter, a vessel may be anchored in Sacramento County waterways for up to thirty (30) consecutive days in a sixty (60) day period if all of the following requirements are met:

1. The vessel is equipped with an operable Coast Guard certified marine sanitation device as follows:

a. An operable Type II or III device that has a label on it under 33 Code of Federal Regulations section 159.16 or that is certified under 33 Code of Federal Regulations section 159.12 or 159.12a; or

b. An operable Type I device that has a label on it under 33 Code of Federal Regulations section 159.16 or that is certified under 33 Code of Federal Regulations section 159.12.

c. When the vessel has a Type III device, the operator must secure each Type III device in a manner which prevents discharge of sewage. Acceptable methods of securing the device include:

i. Closing each valve leading to an overboard discharge and removing the handle; or

ii. Padlocking each valve leading to an overboard discharge in the closed position; or

iii. Using a non-releasable wire-tie to hold each valve leading to an overboard discharge in the closed position.

2. The vessel is in a seaworthy condition in accordance with Sacramento County Code section 6.42.030 (M), and poses no threat of pollution or sanitation hazard;

3. The vessel is capable of self-propelled navigation in accordance with Sacramento County Code section 6.42.030(M), and poses no threat of pollution or sanitation hazard.

4. The vessel does not obstruct navigation.

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

C. Any transitory vessel moored within the waters of Sacramento County for greater than fourteen days (14) days shall be equipped with the following:

1. An operable Coast Guard certified marine sanitation device in accordance with Sacramento County Code section 6.42.110(B)(1)(a)(b) and (c); or

2. A self contained portable toilet; or

3. Or other onboard portable sewage reception system that prevents the overboard discharge of treated or untreated excrement, sewage, or other waste matter or contaminant of any kind.

6.42.120 Delta Meadows; Lost Slough; Steamboat Slough and Snodgrass Slough.

A. Mooring and Anchoring will be allowed in the Delta Meadows and Lost Slough North Channel anchorages as defined in Sacramento County Code section 13.08.050; the Steamboat Slough Speed Zone as defined in Sacramento County Code

section 13.16.033; and Snodgrass Slough for a period of up to one hundred eighty (180) days from May 1 to October 31 of each calendar year.

1. Vessels utilizing this anchorage for this time-period are required to comply with the regulations of this Chapter and are subject to sanitation system inspections by the Sheriff or his designee every thirty (30) days.

2. Vessels subject to this section and utilizing a Type III MSD or portable MSD will be required to show proof of pump out from a commercial waste removal service or from a marina or municipal service during the period they are in the exempted zones.

a. Proof of a pump out will be required every thirty (30) days for those vessels equipped with a holding tank of one hundred (100) gallons or less, from the date of initial inspection by the Sheriff.

b. Proof of a pump out, will be required every forty five (45) days for those vessels equipped with a holding tank of one hundred one (101) to one hundred fifty (150) gallons, from the date of initial inspection by the Sheriff.

c. Proof of a pump out will be required every ninety (90) days for those vessels equipped with a holding tank of one hundred fifty (150) gallons or more, from the date of initial inspection by the Sheriff.

B. This period of six (6) months as described in section A, will not preclude a boater from utilizing the thirty (30) day mooring period as described in Sacramento County Code section 6.42.110(B) during the remainder of the calendar year, so long as it is not used within these areas.

C. Vessels mooring in this area must retain their permit and provide it to authorities upon request.

D. Vessels anchored and/or moored on private property within these areas, as evidenced by deed conveyed by the California State Lands Commission, are exempt from the above listed stay limitations, provided that the vessel owner obtains a written permit every one hundred eighty (180) days and has obtained written permission from the private property land owner in which the vessel is anchored or moored. Both the permit and written permission from the land owner is required to be in the immediate possession of the vessel owner while anchored and/or moored in the above described areas and is to be produced upon request by the Sheriff.

6.42.130 Permits.

A. A written permit shall only be issued in the following manner:

1. By making an appointment in advance with the Sacramento County Sheriff's Marine Enforcement Detail via mail, telephone, or electronic mail to have an inspection conducted upon arrival in Sacramento County waters;

2. On site at the time of contact, by the Sacramento County Sheriff's Marine Enforcement Detail.

3. A vessel that is either regularly and lawfully moored or renting a mooring at a permitted marina or dock in Sacramento County, is not required to obtain a permit under this Chapter.

B. Except as provided in subdivision C of this section, a written permit is valid for thirty (30) consecutive days.

C. A written permit for the areas within the Delta Meadows and Lost Slough North Channel anchorages as defined in Sacramento County Code section 13.08.050,

the Steamboat Slough Speed Zone as defined in Sacramento County Code section 13.16.033 and Snodgrass Slough will be valid for one hundred eighty (180) consecutive days.

D. Any violation of this Chapter will result in revocation of the written permit.

6.42.140 Denial of a Permit

If the Sheriff declines to issue a Permit, the owner of the vessel may request a hearing as specified in Sacramento County Code section 16.18.204.

6.42.150 Mooring Locations.

A vessel may be moored at the following locations to the extent permitted by law:

A. A permitted dock.

B. A permitted marina provided the vessel is moored in compliance with all applicable permit conditions imposed on the marina.

6.42.160 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 Sacramento County Code section 6.42.030(M), and poses no threat of pollution or sanitation hazard;

2. The vessel is capable of self-propelled navigation in accordance with Sacramento County Code section 6.42.030(M), 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 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 Sacramento County Code section 6.42.030(M), and poses no threat of pollution or sanitation hazard;

2. The vessel is capable of self-propelled navigation in accordance with Sacramento County Code section 6.42.030(M), and poses no threat of pollution or sanitation hazard;

3. The vessel does not obstruct navigation;

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

6.42.170 Services.

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

6.42.180 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.

6.42.190 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 hereby imposed an administrative civil penalty of up to five thousand (\$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 6.42.050(C) of this Chapter.

The Department Head, or designee, 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 department head, or designee 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 department head, or designee. 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. The County Hearing Officer previously established by the Board of Supervisors under authority of and pursuant to Government Code section 27720 shall conduct those administrative hearings required by this section.

1. Hearings--Generally. At the time set for hearing, the hearing examiner shall proceed to hear the testimony of the department head, 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.

a. The proceedings at the hearing may be reported by a tape recorder. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

b. Preparation of a record of the proceeding shall be governed by California Code of Civil Procedure Section 1094.6, as presently written or hereinafter amended.

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

4. Oaths; Certification. The hearing examiner or certified shorthand reporter shall administer the oath or affirmation.

5. Evidence Rules. Government Code of the State of California, Section 11513, subsections (a), (b) and (c), as presently written or hereinafter 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.

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 examiner 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 examiner 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 examiner 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 fifteen (15) days after the issuance of the decision, and that the abatement be completed within such time as specified by the hearing examiner, or in the alternative, within the time designated by the department head. 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 department head and the expense thereof made a lien on the property involved.

b. The decision shall also state that the County, as the prevailing party, is entitled to recovery of attorneys' fees as part of its costs in the nuisance abatement action.

c. The decision shall also inform the applicant that the time for judicial review is governed by the California Code of Civil Procedure section 1094.6. Copies of the decision shall be forthwith delivered to the parties personally or sent to them by certified mail. The decision shall be final when signed by the hearing examiner and served as herein provided.

10. Service of the Hearing Examiner's Decision. Upon issuance of the decision, the department head shall post a copy thereof conspicuously on the vessel involved and shall serve a copy on the record owner, in the same manner as set forth in Section 6.42.050(C), and one copy shall be served on each of the following, if known to the department head 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 herein contained, the County may pursue all reasonable and legal means in collecting those sums authorized and due.

14. Attorneys' Fees. Pursuant to Government Code section 25845, attorneys' fees may be recovered by the prevailing party. However, in no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceedings.

SECTION 2. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Supervisors on February 3, 2009 and on February 3, 2009 further reading was waived by the unanimous vote of the Supervisors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Supervisors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.