

RICHARDSON BAY REGIONAL AGENCY  
ORDINANCE NO. 91-3

AN ORDINANCE OF THE RICHARDSON BAY REGIONAL AGENCY, STATE OF CALIFORNIA, AMENDING SECTION 3 OF ORDINANCE 91-1 ENTITLED "HARBOR MASTER, SECTION 4, SUBSECTION (E) OF ORDINANCE 91-1 ENTITLED "RIGHT OF ENTRY, SECTION 9 ENTITLED "PENALTIES' SUBSECTION (C) OF ORDINANCE 91-1, SECTION 5 OF ORDINANCE 87-1 ENTITLED "PERMITS, ANCHORING AND MOORING" AND BY DELETING SECTION 1(G) OF ORDINANCE 87-1 REGARDING THE DEFINITION OF "MOORED FOR AN EXTENDED PERIOD OF TIME.

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The Richardson Bay Regional Agency does ordain as follows:

**SECTION 1.** Section 3 of Ordinance 91-1, amending Subsection (b) of Section 4 of Ordinance 87-1 entitled "Harbor Master," is amended to read as follows:

(b) The Harbor Master and his designee/assistant, acting under the orders and jurisdiction of the Richardson Bay Regional Agency or its designated representative shall have full authority in the enforcement of all ordinances and regulations affecting Richardson Bay, including but not limited to, the power to issue infraction citations. The Harbor Master and his designee/assistant shall act as the Agency's Marine Safety Officer. The Harbor Master and his designee/assistant shall have concurrent jurisdiction to issue such citations for violations of member City and County ordinances relative to Richardson Bay. The appropriate Law Enforcement Department of each member City and County is hereby authorized to issue infraction and misdemeanor citations for violations of this and all ordinances of the Richardson Bay Regional Agency.

**SECTION 2.** Section 4 of Ordinance 91-1, adding Section 4(e) to Ordinance 87-1, is amended to read as follows:

(e) Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of the ordinances of the Richardson Bay Regional Agency, or whenever the Harbor Master or his authorized representative has reasonable cause to believe that there exists in, or on any vessel/object, or attached thereto, any condition or code violation which makes the same unsafe, dangerous

or hazardous, the Harbor Master or his authorized representative, may enter the vessel/object at all reasonable times to inspect the same or to perform any duty imposed upon the Harbor Master by such ordinances; provided that if the vessel/object is occupied, he shall first present proper credentials and request entry; and if such vessel/object is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the vessel/object and request entry. If such entry is refused, the Harbor Master or his authorized representative, shall have recourse to every remedy provided by law to secure entry.

Once the Harbor Master or his authorized representative has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any vessel/object shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Harbor Master or his authorized representative, for the purpose of inspection and examination pursuant to this Ordinance.

**SECTION 3.** Section 9 (c) of Ordinance 91-1, amending Section 10 of Ordinance 87-1, entitled "Penalties" is amended to read as follows:

(c) Whenever an individual has been convicted of violating the same ordinance three times in a twelve month period, the Agency Attorney may elevate the current violation to a misdemeanor and prosecute it as such. The Agency Board hereby states that the continuing violation of its ordinances is a serious matter that warrants aggressive prosecution.

**SECTION 4.** Section 1(g) of Ordinance 87-1 concerning the definition of vessels "moored for an extended period of time, is hereby deleted.

**SECTION 5.** Section 5 of Ordinance 87-1 entitled "Permits, Anchoring and Mooring," is amended to read as follows:

(a) Any person may temporarily anchor a vessel for a period not more than 72 hours, in any 7 day period, in the designated anchorage areas without a permit. No person may anchor a vessel in the non-designated anchorage areas at any time. The Harbor Master is authorized to require persons to relocate vessels within the designated anchorage areas.

(b) Any person anchoring a vessel in Richardson Bay for more than 72 hours shall obtain an anchoring permit from the Harbor Master.

(c) Private Property.

(1) Owners of private moorings which were authorized prior to the adoption of this ordinance, (ie. Ordinance 87-1) who can present to the Harbor Master evidence of ownership of the submerged land underlying the moorings or of authorization from the owner or trustee for placement of the moorings, shall not be required to obtain permits but shall register the moorings with the Harbor Master.

(2) Any person desiring to install a mooring in the waters of the harbor after the adoption of this ordinance (ie. Ordinance 87-1) or to validate a previously existing mooring which does not meet the requirements of Section 5(c)(1), must secure a permit from the Harbor Master in addition to any permits required from other government agencies. A person applying for a mooring permit shall present evidence of ownership or permission of the owner of the submerged land on which the mooring is to be placed.

(3) Private mooring shall be used only by the owner, or with the owner's permission.

(4) Revocation of Private Mooring Permits.

aa. The Harbor Master may deny or revoke a mooring permit or cancel the registration of a mooring which preexisted the adoption of this ordinance (Ordinance 87-1) if the Harbor Master finds that the mooring contributes to traffic congestion, causes dangerous crowding of vessels, contributes to risk of fire, sinking, breakaway or collision damage or if removal of the mooring is necessary to aid in enforcement of any provision of this ordinance.

bb. If the Harbor Master finds that removal of a mooring is necessary to relieve crowding of vessels, the harbor master shall give preference to moorings which were authorized prior to adoption of the ordinance (ie. Ordinance 87-1) or which have had permits for the longest period of time.

cc. If the Harbor Master finds it necessary to invoke Section 5(c)(1), the Harbor Master shall send the permittee a written notice at the address appearing on the application or registration. The notice shall state the reason for the notice and shall state that the permittee must correct the condition for which the notice was issued or remove the mooring within fifteen (15) days of issuance of the notice. If the owner does not correct the condition or remove the mooring, the Harbor Master may remove it. The cost of removal shall be borne by the owner of the mooring.

dd. An owner of a mooring who takes exception to the determination of the Harbor Master as stated in the notice, may file a written appeal of the Harbor Master's decision to the Board of the Richardson By Regional Agency or its designee within fifteen (15) days of issuance of the notice. The decision of the Board or its designee shall be final.

5. When a mooring is sold or transferred, the new owner shall make application to the Harbor Master for a new mooring permit before being permitted to use the mooring. A new mooring installation permit will be issued upon payment of a transfer fee in addition to the mooring installation fee and presentation of evidence of sale or transfer. No transfer shall be permitted unless all past due fees are paid.

**SECTION 6.** This ordinance shall be published once, not later than 15 days following its adoption in the Marin Independent Journal, a newspaper of general circulation printed and published in the County of Marin.

**SECTION 7.** If any part, section, sentence clause or phrase of this ordinance is for any reason held to be invalid or its application to any person or circumstance is held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the application of such provisions to other persons or circumstances. The Agency declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentence, clause or phrase be declared invalid.

PASSED AND ADOPTED at a meeting of the Richardson Bay Regional Agency on the 5th day of February, 1991 by the following vote:

AYES: Agency Members: Fonarow, Friedman, Ruedy, Chairman Sweeny  
NOES: Agency Members: None  
ABSENT: Agency Members: Aramburu

  
ROBIN SWEENEY, CHAIR  
RICHARDSON BAY REGIONAL AGENCY

ATTEST:

  
MIKE FUSON, AGENCY CLERK

