

# Capitola boaters may soon face new restrictions

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Sailors are often depicted as free spirits wooed by the sea, faithful to adventure and less bound by laws than the typical landlubber.

**'It's very simple. An anchor stays with the boat; it's attached to the boat.'**

— Karen Nevis

They drop anchor where they please and live in comparative freedom from regulation.

Recent attempts by the Capitola City Council to restrict sailors' freedom with a mooring ordinance have roused the ire of local boaters and provoked discussions on cities' rights versus boaters' rights.

A watered-down version of the ordinance will be considered at tonight's council meeting, scheduled for 7 p.m. at City Hall.

The ordinance as originally proposed would have allowed boaters to anchor, but not moor, which is more permanent, outside the 500-square yard Capitola Bay Marina adjacent to the wharf.

It was rewritten after boaters' protests sparked a debate among council members over the definition of a mooring as opposed to an anchor. The current version of the ordinance would require anyone mooring outside the marina to obtain a city permit.

"No such permit will be issued," the new ordinance states, "without proof of ownership and proof of insurance adequately insuring third persons, including City, against damages which may result from unsafe mooring or from the vessel coming loose from its mooring."

Marina operator Karen Nevis, who leases the marina and the wharf's bait-and-tackle shop from the city for \$1,000 a month, said she would like the council to return to the original proposal.

Councilman Ron Graves first proposed the ordinance to protect her mooring operation, and Nevis said she's been seeking such an ordinance for years.

She has no quarrel with people anchoring their boats in the waters off Capitola, but objects to the few who annually "moor" their boats for free for the entire season — May 1 through Sept. 30.

In a letter to the council, Nevis wrote, "I feel that since the City of Capitola has not only authorized, but requested, that I install, maintain and pay rent for the right to run a marina in the Capitola waters, that they should stand firm behind that commitment."

Nevis also questioned the city's ability to enforce a permit requirement.

Graves said he is not happy with the ordinance as written now, but he agreed to support it with one additional stipulation — if boats moored outside the marina ever number more than 10, the ordinance will automatically return to the council for review.

He said he did not think that will happen, but Nevis disagreed.

"There's starting to be a lot of people out there starting to appear on private moorings," she said.

The problem with the original proposal was that the council was unable to agree on what is a mooring and what is an anchor.

Boater Linda Bjornson argued that an anchor could remain in the same place all season, whether the boat is there or not, and still be considered an anchor rather than a mooring.

Nevis disagreed, defining such an arrangement as a mooring, which is more permanent than an anchor.

"It's very simple," she said. "An anchor stays with the boat; it's attached to the boat."

Council members sidestepped the issue by dropping the mooring-prohibition clause from the ordinance and concentrating on safety and insurance aspects.

The change has pleased sailors. Boater Gene Condon said he thinks it's a good idea to require insurance because serious boaters have insurance anyway, and he is just as concerned as anyone with boating safety.

He objected to the original intent of the ordinance to protect a commercial endeavor by restricting boaters. Such an ordinance would favor wealthier boat owners who can afford to rent moorings from Nevis or berths in the Santa Cruz Yacht Harbor, he said.

"A business, if it's going to be successful, should do it on its own merits," Condon said.

He and Bjornson questioned the city's right to restrict boaters. According to State Lands Commission representative Debbie Townsend, however, the city was well within its rights even with the original proposal.

Capitola was granted control by the state over tidelands within its city limits, she said.

"That's totally within the city's discretion, to determine which areas are appropriate for mooring and anchorages," she said.

Graves said the whole argument is unfortunate because Nevis and the dissenting boaters complement each other.

Boaters would not find it so attractive to moor near the wharf without Nevis' services. On the other hand, local boaters purchase supplies from her bait-and-tackle shop.

"I think there's a great deal of co-existence out there," he said.

Officials from Santa Cruz and Monterey said they're also grappling with some of the problems Capitola has faced with the mooring ordinance.

Monterey Harbormaster Brooks Bowhay said Monterey is studying taking over the marina's moorings, which are now privately owned and maintained.

The city's main concern is the liability involved, Bowhay said, but he called the whole issue "terribly complex."

Santa Cruz is also studying the possibility of installing and operating moorings, said wharf Superintendent Bill Eisele. He agreed with Capitola boaters that private moorings should also be allowed.

"One thing I'm thoroughly convinced of," he said, "you have to have room for everybody."