

**SAN DIEGO UNIFIED PORT DISTRICT**

**ORDINANCE 2854**

**ORDINANCE AMENDING ARTICLE 8 OF THE SAN DIEGO UNIFIED PORT DISTRICT CODE TO ADD SECTION 8.30 REGULATING ALL SIGNAGE ON ALL NAVIGABLE WATERS, TIDELANDS AND SUBMERGED LANDS GRANTED TO THE DISTRICT, ANY OTHER LANDS CONVEYED TO OR ACQUIRED BY THE DISTRICT, AND ANY OTHER WATERS OR LANDS THAT ARE LEGALLY WITHIN THE JURISDICTION OF THE DISTRICT**

**WHEREAS**, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

**WHEREAS**, Sections 4, 30 and 55 of the Port Act grant the District broad general police powers, including the ability to regulate signage; and

**WHEREAS**, Section 55(a) of the Port Act requires the Board of Port Commissioners (BPC) to make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the territorial limits of the District; and

**WHEREAS**, under Section 30(a)(2) of the Port Act, the BPC may manage the business of the District and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or outside the District, within other states or in foreign countries, through employees or agencies that are expedient; and

**WHEREAS**, under Section 30(b)(2)(A) of the Port Act, the District may acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment, or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the District; and

**WHEREAS**, under Section 56 of the Port Act, the BPC shall make and enforce such local police and sanitary regulations relative to the construction, maintenance, operation and use of all public services and public utilities in the District, operated in connection with or for the promotion or accommodation of

commerce, navigation, fisheries, and recreation therein as are now vested in the District; and

**WHEREAS**, under Section 60 of the Port Act, if District does not adopt any police, fire and sanitary regulations, the police, fire and sanitary regulations of any city whose boundaries are adjacent to or contiguous to the territorial limits of the District apply; and

**WHEREAS**, application of law within the District is governed by federal and state law, including the Port Act and the Public Trust Doctrine, and no ordinance of the District or of any of the member cities may conflict with that law; and

**WHEREAS**, California Public Resources Code Section 6009 prohibits local or municipal's interests, concerns, affairs or benefits from trumping the Public Trust Doctrine or the powers granted to or obligations required by the District pursuant to the Port Act; and

**WHEREAS**, the District actively regulates signage pursuant to the San Diego Unified Port District Code (Code) and BPC Policy No. 770, and through its numerous agreements with stakeholders within the District's jurisdiction; and

**WHEREAS**, it is necessary for the District to retain control of the ability to regulate all signage, including on-site and off-site signage within the District's jurisdiction to encourage and promote commerce, navigation, fisheries, and recreation in and through its jurisdiction; and

**WHEREAS**, any signage located within the District must comply with all laws and regulations, including, without limitation, the California Environmental Quality Act (California Public Resource Code § 21000, et seq.), the California Coastal Act (Public Resource Code § 30000 et seq.), and the Outdoor Advertising Act (California Business and Professions Code § 5200 et seq.).

**NOW, THEREFORE**, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

That Article 8 of the San Diego Unified Port District Code is amended to add Section 8.30 regulating on-site and off-site signage within the jurisdiction of the San Diego Unified Port District as follows:

Section 1.

(a) Definitions

In addition to the definitions and interpretations set forth in Section 0.03 of this Code, and for purposes of this Section, the following words shall mean:

1. "Signage" means all signs, including, without limitation, signs which advertise any business, product, person, activity, event or service whether located on-site or off-site and the portion of the Structure on which a sign is attached.

2. "Structure" means an edifice or portion thereof or a building or portion thereof of any kind or any construction built up or composed of parts joined together in some definite manner including a wall, fence, pier, post, or shelter on which Signage is attached.

(b) Regulation of Signage

Pursuant to powers granted to the District pursuant to the Harbors and Navigation Code Appendix I, this Section is intended to clarify that the District regulates and shall issue all permits or entitlements, including, without limitation, building and use permits, related to all Signage, as defined herein or as may be otherwise defined by a local municipality, on all navigable waters, tidelands and submerged lands granted to the District, any other lands conveyed to or acquired by the District and any other waters or lands that are legally within the jurisdiction of the District.

(c) Preemption

Pursuant to Section 60 of Harbors and Navigation Code Appendix I, this Section is intended to preempt local and municipal regulations, codes and permit requirements for Signage, as defined herein or as may be otherwise defined by a local municipality, on District navigable waters, tidelands and submerged lands granted to the District, any other lands conveyed to or acquired by the District, and any other waters or lands that are legally within the jurisdiction of the District.

Section 2. This Ordinance shall take effect on the 31<sup>st</sup> day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:

GENERAL COUNSEL

  
By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14<sup>th</sup> day of April, 2016, by the following vote:

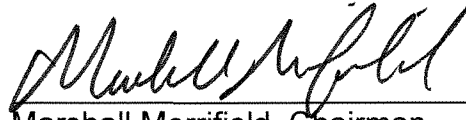
AYES: Castellanos, Moore, Nelson Bonelli, Malcolm, Merrifield, and Valderrama.

NAYS: None.

EXCUSED: None.

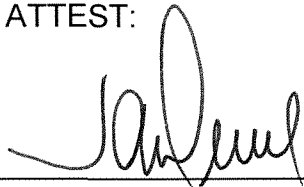
ABSENT: None.

ABSTAIN: None.



Marshall Merrifield, Chairman  
Board of Port Commissioners

ATTEST:



Timothy A. Deuel  
District Clerk

(Seal)