

SAN DIEGO UNIFIED PORT DISTRICT CODE

Published Pursuant to
San Diego Unified Port District Ordinance
BOARD OF PORT COMMISSIONERS



SAN DIEGO UNIFIED PORT DISTRICT

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SECTION INDEX

**Published Pursuant to San Diego Unified Port District Ordinance 19
BOARD OF PORT COMMISSIONERS
San Diego Unified Port District Code**

- 0.0 ADMINISTRATION AND GOVERNMENT
- 1.0 FINANCE AND ACCOUNTING*
- 2.0 COST RECOVERY
- 3.0 TENANT PROJECT REVIEW
- 4.0 MARINE OPERATIONS
- 5.0 AIRPORT OPERATIONS*
- 6.0 GENERAL OPERATIONS*
- 7.0 ENGINEERING*
- 8.0 POLICE MEASURES
- 9.0 DEBARMENT
- 10.0 STORMWATER CONTROL
- 11.0 NEWSRACKS
- 12.0 REQUIRED REPORTING ON TIDELANDS
- 14.0 FIREWORKS DISPLAY
- 15.0 WIRELESS COMMUNICATION FACILITIES

*No Code Sections currently active for this category.

Sections 55 and 56 of the San Diego Unified Port District Act (Stats. 1962, 1st Ex. Sess., c.67, as amended by Stats. 1963, c.673) require the Board of Port Commissioners to make and enforce necessary rules and regulations governing the use and control of all navigable waters, tidelands and submerged lands within the district and to make and enforce certain local police and sanitary regulations relating to the District.

The Board, by adoption of Ordinance No. 19, established a system for the codification of District ordinances.

As an aid to those persons and agencies having an interest in the ordinances of the District, this Code has been prepared. This Code will be supplemented as new ordinances are adopted or as existing provisions are amended.

ARTICLE 0ADMINISTRATION & GOVERNMENT**SECTION NO. 0.01 – SHORT TITLE**

This code which consists of administrative, regulatory, and revenue ordinances of the SAN DIEGO UNIFIED PORT DISTRICT, shall be known as the “San Diego Unified Port District Code,” and it shall be sufficient to refer to said Code as the “Port District Code” in any legal proceeding pursuant to any of its provisions; it shall also be sufficient to designate any ordinance adding to, amending or repealing said Code as an addition or amendment to or a repeal of the “Port District Code.” This Code is adopted pursuant to the requirements of the SAN DIEGO UNIFIED PORT DISTRICT ACT (Stats. 62, 1st Ex. Sess., c.67, Harbor & Navigation Code Appendix 1).

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.02 – CONSTRUCTION

The provisions of this Code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.03 – DEFINITIONS AND INTERPRETATION

The following words and phrases whenever used in this Code shall be construed as defined in this Section unless a different meaning is specifically defined, or unless the context otherwise requires:

"District" or "Port District" shall mean the San Diego Unified Port District.

"Board" or "Board of Port Commissioners" shall mean the Board of Port Commissioners of the San Diego Unified Port District.

"Executive Director" shall mean the Executive Director of the San Diego Unified Port District.

"County" shall mean the County of San Diego.

"Oath" includes affirmation.

"Office". The use of the title of any officer, employee or any office, or ordinance shall mean such officer, employee, office or ordinance of the San Diego Unified Port District, unless otherwise specifically designated.

"Shall" and "May." "Shall" is mandatory; "May" is permissive.

"Written" shall include printed, typewritten, mimeographed or multi-graphed or computer generated.

"Genders". Any gender includes the other gender.

"Singular" and "Plural". The singular number includes the plural, and the plural the singular.

"Tenses". Words used in the present tense include the past and future tense and vice versa.

"Use of Words and Phrases". Words and phrases used in this ordinance and not specifically defined shall be construed according to the context and approved usage of the language.

"Person" shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

(Enacted March 14, 1963 – Ordinance No. 19)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 0.04 – EFFECTS OF HEADINGS

Headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter, article, division, or section hereof.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.05 – DELEGATION OF AUTHORITY

Whenever a power is granted to, or a duty is imposed upon the Executive Director by the provisions of this Code, such power or duty may be exercised or performed by an assistant or such person as the Executive Director may designate.

(Enacted March 14, 1963 – Ordinance No. 19)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 0.06 – REFERENCES TO ACTS OR OMISSIONS WITHIN THE SAN DIEGO UNIFIED PORT DISTRICT

This code shall refer only to the omission or commission of acts within the territorial limits of the San Diego Unified Port District upon Tidelands adjacent to the Bay of San Diego, the waters of San Diego Bay, and waterways connecting thereto, and upon land over which the Board of Port Commissioners has jurisdiction or control by virtue of any law, or by reason of ownership or control of property.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.07 – POLICE AUTHORITY

Nothing in this Code shall be construed to limit the jurisdiction of the Police Departments of the Cities within the territorial limits of the “District.”

The authority of the Harbor Police, as provided in the San Diego Unified Port District Act (Stats. 1962, 1st Ex. Sess., c.67, Harbors and Navigation Code Appendix I) shall be exercised in cooperation with the Chiefs of Police of all cities within the "District" and in cooperation with Federal, State and County law enforcement agencies.

(Enacted March 14, 1963 – Ordinance No.19)

SECTION NO. 0.08 – EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS PREVIOUSLY ACCRUED

Neither the adoption of this Code nor the repeal of any ordinance of any city or area within the territorial limits of the San Diego Unified Port District shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Enacted March 14, 1963 – Ordinance No.19)

SECTION NO. 0.09 – SERVICE AND PROOF NOTICES

Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the name appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

Proof of giving any notice may be made by the certificate of any officer or employee of the San Diego Unified Port District or by affidavit of any person over the age of eighteen years, which shows service in conformity with this Code or other provisions of law applicable to the subject matter concerned.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.10 – VALIDITY OF CODE

If any section, subsection, sentence clause, phrase or portion of this Code is for any reason held to be 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 Code. The Board of Port Commissioners of the San Diego Unified Port District hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.11 – GENERAL PENALTY

- (a) General Penalty. Unless otherwise stated in the San Diego Unified Port District Code, any person violating any of the provisions or failing to comply with any of the mandatory requirements of the District Code shall be guilty of a misdemeanor, unless, at the sole option of the District, the violation is cited and prosecuted as an infraction or addressed through the assessment of civil penalties as provided in Subsection (i), below.
- (b) Infraction. An infraction is punishable by:
 - 1. A fine not exceeding One Hundred Dollars (\$100.00) for a first violation, Two Hundred Dollars (\$200.00) for a second violation within One (1) year, and Five Hundred Dollars (\$500.00) for each subsequent violation within One (1) year.
 - 2. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, on his or her own recognizance, or upon a deposit of bail.

- (c) Misdemeanor. A misdemeanor is punishable by: Imprisonment in the County Jail not exceeding One (1) year, or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both.
- (d) Violations May Be Prosecuted as an Infraction. A violation of any District Code section may, at the discretion of the prosecutor, if the violation is initially charged as a misdemeanor rather than an infraction, be prosecuted as an infraction, subject to the procedures described in Subsection (b)2, above, and Subsection (e), below, when:
 - 1. The prosecutor files a complaint charging the offense as an infraction unless the Defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor; or
 - 2. The Court, with the consent of the Defendant, determines that the offense is an infraction in which event the case shall proceed as if the Defendant had been arraigned on an infraction complaint.
- (e) Provisions of Law Applicable to Infractions. Except as otherwise provided by law, all provisions of law related to misdemeanors shall apply to infractions, including but not limited to powers of peace officers, jurisdiction of Courts, period for commencing action, for bringing a case to trial, and burden of proof.

- (f) Violations Deemed a Public Nuisance. In addition to the foregoing, any violation of the provisions of the District Code is deemed to be a public nuisance. Such violations may be abated by civil action or pursuant to applicable administrative abatement procedures.
- (g) Separate Offense. Each and every day during a portion of which a violation of any provision of the District Code or any applicable statute, rule, code or regulation enforceable by the District is committed, continued or maintained is a separate and distinct violation.
- (h) Penalties Not Exclusive. Payment of a fine or administrative penalty shall not excuse payment of any fee or any corrective or other action required by the District Code or any applicable statute, rule, code or regulation enforceable by the District.
- (i) Civil Penalties.
 - 1. Applicability.
 - a) Any person violating any provisions of the District Code or any applicable statute, rule, code or regulation enforceable by the District may be subject to the assessment of civil penalties pursuant to the Administrative Citation procedures provided in this Subsection 0.11(i).
 - b) The administrative assessment of civil penalties established in this Subsection 0.11(i) may be imposed in addition to any

other administrative or judicial remedy established by law which may be pursued to address violations of the District Code or any applicable statute, rule, code or regulation enforceable by the District.

2. Definitions.

For purposes of this Subsection 0.11(i):

- a) “Administrative Citation” – a document used in abatement and civil penalties actions, which provides notice of District Code violations or violations of any applicable statute, rule, code or regulation enforceable by the District, and orders a Responsible Person to pay civil penalties and costs and/or take certain steps to correct the violations.
- b) “Responsible Person” – a person who the Executive Director determines is responsible for causing or maintaining a public nuisance or a violation of the District Code or any applicable statute, rule, code or regulation enforceable by the District. Responsible Person includes but is not limited to an individual, corporation, partnership, property owner, tenant, person with a legal interest in real property or person in possession, custody or control of real property.

- c) “Hearing Officer” – an impartial person, designated by the Executive Director to preside over an administrative hearing provided for in this Subsection 0.11(i).
 - d) “Enforcement Order” – an order issued by a Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay civil penalties and administrative costs, or take any other action as authorized or required by this Code or any applicable statute, rule, code or regulation enforceable by the District.
- 3. Amount of Civil Penalties.
 - a) The maximum civil penalty shall be Five Thousand Dollars (\$5,000.00) per violation. The maximum amount of civil penalties shall not exceed One Hundred Thousand Dollars (\$100,000.00) for any related series of violations, excluding any late payment charges or other costs.
 - b) A late payment charge shall be paid to the District in the amount of Fifty Per Cent (50%) of the penalty owed if the penalty has not been paid in total on the date it is due.
- 4. Administrative Citation Procedures.
 - a) Issuance of Administrative Citation. Whenever the Executive

Director determines that a violation of one or more provisions of the District Code or any applicable statute, rule, code or regulation enforceable by the District has occurred or continues to exist, a written Administrative Citation may be issued to the Responsible Person, imposing civil penalties. More than one Administrative Citation may be issued against the same Responsible Person if it encompasses either different dates or different violations.

- b) Contents of Administrative Citation. Each Administrative Citation shall contain the following information:
- 1) The date of the violation(s);
 - 2) The address or a definite description of the location where the violation(s) occurred;
 - 3) The Code Section(s) violated and a description of the violation(s);
 - 4) A description of how the violation(s) can be corrected and the time frame for completion of any remedial action(s);
 - 5) The total or daily amount of civil penalties determined pursuant to the criteria in Subsection 0.11(i)5.c.;

- 6) Identification of the factors used by the Executive Director in determining the duration and the amount of civil penalties;
- 7) A date when the civil penalties began to accrue and a date when assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Administrative Citation until the violation is corrected;
- 8) An order prohibiting the continuation or repeated occurrence of the violation(s);
- 9) Any other potential consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Administrative Citation;
- 10) A description of the fine payment process, including a description of the time within which and the place where the fine shall be paid; and
- 11) A description of the Administrative Citation appeal and hearing process, including the time within which an appeal may be filed.

- c) Form of Administrative Citation. An Administrative Citation may be in letter form, or any other form, and under any title that adequately conveys the information set forth in Subsection 0.11(i)4.b.
- d) Service of Administrative Citation. The Administrative Citation shall be served upon the Responsible Person by certified or registered mail or by personal service. Service of an Administrative Citation by personal service shall be deemed complete at the time of such personal service. Service of an Administrative Citation by certified or registered mail shall be deemed complete on the date the Citation is placed in the mail. The failure of any Responsible Person to receive a copy of the Administrative Citation shall not affect the validity of any proceedings or actions taken under this Subsection 0.11 (i).

5. Determination of Civil Penalties.

- a) In determining the date when civil penalties start to accrue, the Executive Director may consider the date when the District first discovered the violation.
- b) The assessment of civil penalties shall end when all action required by the Administrative Citation has been completed.

- c) In determining the total or daily amount of the civil penalty to be assessed, the Executive Director may consider some or all of the following factors:
 - 1) The duration of the violation(s); violation(s);
 - 2) The frequency or recurrence of the violation(s);
 - 3) The seriousness of the violation(s);
 - 4) The history of the violation(s);
 - 5) The Responsible Person's conduct after issuance of the Administrative Citation;
 - 6) The good faith effort by the Responsible Person to comply;
 - 7) The economic impact of the penalty on the Responsible Person;
 - 8) The impact of the violation(s) upon the community;
 - 9) Any other factors that justice may require;
- d) The Executive Director has the authority to establish a penalty schedule as a guideline in determining the amount of civil penalties in appropriate cases. The Executive Director may also establish procedures for the use of this penalty schedule.

6. Administrative Costs.

The Executive Director or Hearing Officer is authorized to assess any reasonable administrative costs incurred in connection with the issuance of the Administrative Citation, including but not limited to scheduling and processing of the hearing and all subsequent actions.

7. Attorney Fees.

In any action, administrative proceeding or special proceeding to abate a nuisance, the prevailing party may recover attorney fees if, at the initiation of the action or proceeding, the District elects to seek recovery of its own attorneys' fees. In no event shall the award of attorney fees to the prevailing party exceed the amount of reasonable attorney fees incurred by the District in the action or proceeding.

8. Payment of Civil Penalties.

Payment of the Administrative Citation and any other costs shall be made to the department of the District that issued the Citation or as otherwise directed in the Administrative Citation. Payment is due within ten (10) calendar days after the Administrative Citation becomes final, either by failure to timely or properly file an appeal

or after a Hearing Officer issues an Administrative Enforcement Order.

9. Appeal of Administrative Citation.

- a) Content of Appeal. Any recipient of an Administrative Citation may contest whether the Responsible Person has caused or maintained the violation(s) specified in the Administrative Citation and whether the amount of civil penalties and costs assessed by the Executive Director was reasonable. Any appeal shall be in writing and filed with the Executive Director. The written appeal shall state that a hearing is requested and shall contain all reasons why the Responsible Person contests the Administrative Citation.
- b) Time Within Which to File Appeal. A written appeal must be filed with the Executive Director within Ten (10) calendar days from the date that service of the Administrative Citation was completed pursuant to Subsection 0.11(i)4d.
- c) Waiver of Appeal. If no written appeal is filed, or an untimely or incomplete appeal is filed, the right to a hearing is waived and the decision of the Executive Director in the Administrative Citation is final.

10. Appointment of Hearing Officer.

The Executive Director shall appoint an impartial Hearing Officer and establish a date, time and place for the civil penalties hearing when a timely and complete written appeal is filed.

11. Civil Penalties Hearing.

- a) Within Thirty (30) days of the appointment of a Hearing Officer, the Hearing Officer shall notify the parties in writing of the time, date and place of the hearing. The notice shall be sent to the Responsible Person by registered or certified mail, or hand-delivered.
- b) The Hearing Officer shall only consider evidence that is relevant to the following issues: i) whether the Responsible Person has caused or maintained a violation of the District Code or any applicable statute, rule, code or regulation enforceable by the District that existed on the dates specified in the Administrative Citation; and ii) whether the amount of civil penalties assessed by the Executive Director pursuant to the procedures and criteria outlined in Subsection 0.11(i)5.c., including any costs, was reasonable.

12. Administrative Enforcement Order.

- a) Once all evidence and testimony are completed, the Hearing Officer shall issue and serve on the parties a written Administrative Enforcement Order which affirms or rejects the Administrative Citation, or which modifies the total or daily amount or duration of the civil penalties, depending upon the review of the evidence. The Hearing Officer may increase or decrease the total amount of civil penalties and costs that are assessed by the Administrative Citation.
- b) The Hearing Officer may issue an Administrative Enforcement Order that requires the Responsible Person to cease from violating the District Code, or any applicable statute, rule, code or regulation enforceable by the District, and to make necessary corrections, if any.
- c) As part of the Administrative Enforcement Order, the Hearing Officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person's ability to complete compliance by specified deadlines.

- d) The Hearing Officer may issue an Administrative Enforcement Order which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation(s).
 - e) The Hearing Officer may schedule subsequent review hearings as may be necessary, or as requested by a party to the hearing, to ensure compliance with the Administrative Enforcement Order.
 - f) The decision of the Hearing Officer is final.
13. Failure to Comply with the Administrative Enforcement Order.
- a) Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the Administrative Enforcement Order, the Executive Director may use all appropriate legal means to obtain compliance.
 - b) After the Hearing Officer issues an Administrative Enforcement Order, the Executive Director shall monitor the violation(s) and determine compliance.
14. Recovery of Civil Penalties.
- The District may collect any past due Administrative Citation penalties, late payment charges or other fees or costs and recover

its collection costs as a debt to the District through any means provided by law. Means of collecting the debt may include, but are not limited to, referring the matter for collection, filing an action in the Superior Court or Small Claims Court, or imposing a lien or special assessment on the property on which the violation(s) occurred.

(Enacted March 14, 1963 – Ordinance No. 19)

(Amended September 12, 1972 – Ordinance No. 600)

(Amended September 4, 2001 – Ordinance No. 2147 – Urgency Ordinance)

(Amended October 9, 2007 – Ordinance No. 2472)

SECTION NO. 0.12 – ACTS INCLUDE CAUSING, AIDING AND ABETTING

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding or abetting such act or omission.

(Enacted March 14, 1963 – Ordinance No. 19)

SECTION NO. 0.13 – PERMIT VIOLATIONS**(a) Prohibitions**

It is unlawful to perform any activity on District property without obtaining the necessary approval or permit or in violation of any term of the approval or permit.

(b) Applicability

This Section applies to any approval or permit required under any applicable statute, rule, code or regulation enforceable by the District as a matter of law.

(c) Penalties

1. Any person who violates this Section shall be subject to punishment in accordance with District Code Section 0.11.
2. Violations of this Section may be grounds for suspension, revocation or modification of any District permit, license or approval. Suspensions and revocations shall occur in accordance with the administrative hearing procedures in Section 0.11.
3. Penalties and remedies under this Section may be cumulative and in addition to other administrative, civil or criminal remedies.

(Enacted June 4, 2002 – Ordinance No. 2185)

(Superseded and Amended October 9, 2007 – Ordinance No. 2473)

SECTION NO. 0.14 – CODE OF ETHICS

All members of the Board of Port Commissioners (individually referred to as "Commissioner(s)," collectively referred to as the "Board") and all employees of the San Diego Unified Port District (District) must comply with the following Code of Ethics.

(a) Definitions:

1. "Board" – The Board of Port Commissioners of the San Diego Unified Port District.
2. "Capacity as an Attorney" – An attorney representing a client, within an attorney-client relationship, regarding a legal issue.
3. "Code" – The District's Code of Ethics (Section 0.14 of the District Code.)
4. "Commissioner" – A member of the Board of Port Commissioners.
5. "Compensation" – The receipt of any monetary or non-monetary payment, except a stipend paid to a board member of a public non-profit corporation. Compensation includes, but is not limited to, salary, wages, fees, and any discount or economic opportunity not made available in the regular course of business to members of the public.
6. "Confidential Information" – Information that is not subject to disclosure under the California Public Records Act, or is properly

the subject of discussion in Closed Session pursuant to the Ralph M. Brown Act.

7. “Direct Communication” – Talking to a person, either by telephone or in person, or corresponding with a person, either in writing, by electronic transmission, or by facsimile machine. Direct Communication does not include solely responding to questions from any District Official, or appearing as a speaker at, or providing written statements which become part of the record of a public hearing, or a direct response to an enforcement proceeding with the District.
8. “District” – San Diego Unified Port District
9. “District Employee” – Any employee of the District.
10. “District Official” or. (Official) – Commissioner(s) and/or District Employees.
11. “District Premises” – District Administration building and parking lot, any other building and accompanying land and/or parking lots occupied by District Officials.
12. “Gift” – Any payment or other benefit provided to a District Official that confers a personal benefit for which the District Official does not provide goods or services of equal or greater value. A Gift includes a rebate or discount in the price of anything of value

unless the rebate or discount is made in the regular course of business to members of the public. (Government Code Section 82028)

13. “Influence the District” – Affecting or attempting to affect any action by a District Official on one or more District decisions by any method, including promoting, supporting, opposing, participating in, or seeking to modify or delay such action. Influencing the District also includes providing information, statistics, analysis or studies to a District Official.
14. “Legal Issue” – A legal question which is at the foundation of a case involving or potentially involving the District, which, if not settled, requires a decision by a court.
15. “Lobbying” – Direct Communication with a District Official for the purpose of Influencing the District on behalf of any other person.
16. “Lobbyist” – An individual who receives or becomes entitled to receive Compensation from any corporation, firm, organization, or person other than himself, and attempts to influence any District decision by contacting personally, or by telephone, a District Official, or who receives or becomes entitled to receive Compensation during any calendar year for Lobbying, and who has

had at least one District Communication with a District Official in that calendar year.

17. “Personally and Substantially Participated” – Rendering a decision, approval, or disapproval: by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using Confidential Information.
18. “Political Reform Act”- California Government Code Sections 81000 – 91000.
19. “Public Agency” – The United States or any of its agencies, the State of California; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

(b) Misuse of Office

District Officials may not make, participate in making or in any way attempt to use their official position to influence a District decision in which the Official knows or has reason to know the following has a material financial interest, as defined in the *Political Reform Act*:

1. The District Official,
2. A relative, which includes the District Official's spouse (which, for purposes of this Code, includes domestic partner as defined in the District's benefits program), parents, grandparents, brothers,

sisters, children, grandchildren, first cousins, the spouses or children of these people, and parents, grandparents, grandchildren, children, sisters, brothers or first cousins of the District Official's spouse;

3. Any person or entity for which the District Official is an owner, attorney, agent, broker, employee, officer, director, trustee or consultant;
4. Any person or entity with which a District Official has a financial relationship;
5. Any person or entity with which the District Official had a financial relationship during the previous Twelve (12) months; or
6. Any person or entity from which the District Official received a Gift cumulating more than the amount permitted by Subsection (d), below, of this Code, including any goods or services for less than fair market value unless available to the public generally, during the previous Twelve (12) months. This subdivision shall not apply to Gifts received on or before June 30, 2002.

(c) Misuse of District Resources

District Officials may not use or permit use of District time, personnel, supplies, equipment, identification cards/badges or facilities for

unapproved, non-District activities or except as provided for by administrative regulation or procedure.

(d) Gifts

District Officials may not request Gifts from any person or entity that the District Official knows or should know is doing business with the District or intends to do business with the District or has done business with the District during the previous Twelve (12) months. *District Officials* who are required to file a Statement of Economic Interest, Form 700, may not accept any *Gifts* aggregating more than the amount permitted by the *Political Reform Act*, Government Code Section 89503(f), and as determined by the Fair Political Practices Commission (FPPC) per year from any person or entity. *Gifts* do not include *Gifts* that are excluded under the Fair Political Practices Regulations, including but not limited to Section 18942. These exclusions include, among other things, certain informational material, *Gifts* from certain relatives, plaques, hospitality in a home, presents exchanged on certain special days, and free admission and travel in-State when giving a speech or other presentation.

(e) Gratuities

District Officials may not accept anything of value from anyone, other than the District, or its officers or employees, for doing the District Official's job. The exclusions specified in FPPC Regulations apply to this section.

(f) Political Activities

1. Unlawful use of influence

- a) No one who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the State or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action. (Government Code Section 3204)
- b) No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer to arrange for any increase in compensation or salary for an employee in

exchange for, or a promise of, a contribution or loan to any committee controlled directly or indirectly by the person who holds, or who is seeking election or appointment to, an office.

(Government Code Section 3205.5)

2. Solicitation of political contributions

District Officials shall not, directly or indirectly, solicit a political contribution from a District Officials, or from a person on an employment list of the District. This does not prohibit a District Official from requesting political contributions from District Officials if the solicitation is part of a solicitation made to a significant segment of the public which may include District Officials. (Government Code Section 3205)

3. Political activity during working hours; on District Premises; or while in uniform.

a) District Officials are prohibited from engaging in political activity during working hours and are prohibited from engaging in political activity on District premises. (Government Code Section 3207)

b) No District Official shall participate in political activities of any kind while in uniform. (Government Code Section 3206)

(g) Confidential Information

District Officials may not disclose Confidential Information or use it for any non-District purpose, even after you leave District service. Disclosure to a law enforcement agency of confidential government information concerning conduct that may involve fraud, corruption, criminal activity or a violation of this Code is not prohibited.

(h) Representation

While a District Official, you may not communicate for pay with the District on behalf of a private person or entity, nor may you represent a private person or entity in a matter that is before the District, except that a District Official may represent himself or herself on a matter.

(i) Post District Employment

1. This section does not apply to former District Officials employed by Public Agencies, or a former District Official representing himself or herself, in his or her individual capacity.
2. Former District Officials shall not engage in Direct Communication with the District, for Compensation, on a particular project that the Official Personally and Substantially Participated, with regard to any pending application for discretionary funding or discretionary entitlements before the District, relating to that particular project, on

behalf of any person for a period of One (1) year immediately following termination of service with the District.

3. Former District Officials shall not, for Compensation, knowingly counsel or assist any person in connection with an appearance or communication in which the former District Official is prohibited from engaging pursuant to subsection (2), above, for a One (1) year period immediately following termination of service with the District.
4. Former District Officials shall not engage in Direct Communication with the District for the purpose of Lobbying the District if the former District Official served as a District Official within the previous Twelve (12) months, and the former District Official is receiving Compensation from the private business to engage in the Direct Communication with the District.

(j) Prohibited Outside Positions

A District Official may not be a paid attorney, agent, broker, officer, director, trustee or consultant (other than as a full-time employee) for anyone that a District Official knows or should know is doing business or seeking to do business with the District or that a District Official knows or should know has or is seeking a license, permit, grant, or benefit from or is entering into a contract with the District.

(k) Ethics Officer

The Port Attorney's office shall designate an Ethics Officer for the District. This person shall serve as the point person for all questions concerning this Code and the Political Reform Act.

(l) Review of Filings and Advice by the Ethics Officer

The District's Ethics Officer will be available to assist District Officials with their filing prior to the deadline. The District's Ethics Officer also will provide assistance on any ethical question concerning a District Official's role at the District. District Officials should feel comfortable seeking assistance and asking questions about their particular situation. After District Officials file their Statement of Economic Interests, Form 700, the District's Ethics Officer will review the Statement and contact the District Official if there are any corrections needed.

If the District's Ethics Officer believes that a District Official has a potential conflict of interest, the District's Ethics Officer will advise the person as soon as possible about the potential conflict. It is the District Official's responsibility to make such a determination, and penalties for failure to do so are applied to the District Official.

(m) Notice of a Conflict of Interest

District Officials must comply with the following provisions on disclosure and disqualification:

1. As soon as a District Official faces a possible conflict of interest under the Political Reform Act or this Code, the District Official must disqualify himself or herself from dealing with the matter.
2. Whenever a District Official is required to disqualify himself or herself under this section, the District Official must:
 - a) Promptly inform his or her supervisor, if any, about the District Official's disqualification;
 - b) Promptly file with the District's Ethics Officer a signed statement disclosing the nature and extent of the conflict of interest; and
 - c) Immediately stop participating further in the matter.
3. If the District Official is a Commissioner, the Commissioner must also set forth the disqualification on the official record of the Board and follow the Political Reform Act regarding conflict of interest.
4. No one shall retaliate against a District Official or take any adverse personnel action against a District Official for complying with this section.

(n) Training Sessions

Each year, prior to the annual filing of the Statements of Economic Interest, the District's Ethics Officer will hold a training session on how to

file and the current state of the law. District Officials are encouraged to attend, particularly if the District Official is new to the District.

(o) Lobbying Provisions

Any person, who is paid to Lobby the District, shall register as a District Lobbyist with the District Clerk's office within Ten (10) days of qualifying as a Lobbyist. This section is not applicable to a Public Agency official, or an individual acting on his or her own behalf, or on behalf of a business entity which is wholly-owned or controlled by such individual, or to attorneys who are acting in their Capacity as an Attorney while representing a client regarding a Legal Issue involving the District.

The registration statement shall include the name, address and phone number of the person who is registering, along with the name, address and phone number of each person who is employing the person to be their Lobbyist.

Each Lobbyist shall file quarterly reports listing Compensation received for Lobbying the District for each employer, the items lobbied, and a list of Gifts provided to Commissioners or District Employees on a form prepared by the District.

Once a person no longer qualifies as a Lobbyist, the person may terminate his or her registration by filing a notice of termination with the District Clerk.

All of these statements shall be filed under penalty of perjury.

(p) Inducement of Others

District Officials may not cause, try to cause, or help another Commissioner or District Employee to do anything that would violate any provision of this Code.

(q) Enforcement

In addition to the penalties set forth in the Political Reform Act, which include criminal, civil and administrative remedies set forth in Government Code Section 91000 et seq., the District may impose the following criminal or civil penalties on those persons who violate either the Political Reform Act or this Code:

1. Criminal Penalties

Any person who knowingly or willfully violates any provision of this Code is guilty of a misdemeanor. In addition to other penalties provided by law, a fine of up to the greater of Ten Thousand Dollars (\$10,000.00) or Three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

Prosecution for violation of this Code must be commenced within Four (4) years after the date on which the violation occurred.

2. Civil Penalties

Any person who violates any provision of this *Code*, shall be liable in a civil action brought by the *Board* or the District Attorney or the appropriate City Attorney, for an amount up to Five Thousand Dollars (\$5,000.00) per violation.

No civil action alleging a violation of this *Code* may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000 or this *Code*. No civil action alleging a violation of any provisions of this *Code* shall be filed more than Four (4) years after the date the violation occurred.

3. Other Penalties

Additional penalties that may be imposed on *Commissioners* shall include, but are not limited to, removal as Chair, removal as Chair of a committee, removal from a committee, loss of travel privileges, censure, or any other appropriate remedy imposed by a majority of the other *Board* members. Any action taken shall be promptly transmitted to the *Commissioner's* appointing authority.

Penalties that may be imposed on *District Employees* shall include,

but are not limited to, dismissal, suspension without pay, loss of travel privileges, or a letter in the personnel file.

(Enacted June 4, 2002 – Ordinance No. 2184)

(Amended August 20, 2002 – Ordinance No. 2195)

(Amended November 18, 2003 – Ordinance No. 2275)

SECTION NO. 0.15 – HOLIDAYS

The Personnel System Rules and Regulations shall provide the holidays observed by the San Diego Unified Port District.

(Enacted August 6, 1963 – Ordinance No. 88)

(Amended November 24, 1970 – Ordinance No. 495)

(Amended June 18, 1974 – Ordinance No. 656)

ARTICLE 2COST RECOVERY**SECTION NO. 2.00 – ESTABLISHMENT OF COST RECOVERY USER FEE SCHEDULE FOR DISTRICT SERVICES**

The Board of Port Commissioners shall adopt and may amend from time to time a Cost Recovery User Fee Schedule of the fees to be paid as provided therein for services and administrative acts of the District which fees shall not exceed the costs incurred and which shall apply to requests or applications in process on or after its effective date.

(Enacted May 7, 2013 – Ordinance No. 2720)

(Fee Schedule Adopted by Minutes – June 11, 2013)

(Amended April 15, 2014 – Ordinance No. 2763)

SECTION NO. 2.01 – COST RECOVERY USER FEE SCHEDULE FOR DISTRICT SERVICES

In accordance with Section 2.00, the following fees shall apply:

**San Diego Unified Port District
Cost Recovery User Fee Schedule**

<i>Real Estate</i>	<i>Fee (1)</i>	<i>Fee Type</i>
Rental Agreement & Tidelands Use and Occupancy Permit – Simple	\$1,100	Flat Fee
Tidelands Use and Occupancy Permit – moderate	\$2,900	Flat Fee
Tidelands Use and Occupancy Permit – complex	\$14,000	Flat Fee
Easements for Utility Purposes – simple	\$1,000	Flat Fee
Easements for Utility Purposes – complex	\$3,200	Flat Fee
Lease Amendments – simple	\$3,000	Flat Fee
Lease Amendments – moderate	\$8,000	Flat Fee
Option to Lease - Amendment – simple	\$3,000	Flat Fee
Option to Lease - Amendment – moderate	\$8,000	Flat Fee
Letter Agreements – simple	\$900	Flat Fee
Letter Agreements – moderate	\$1,800	Flat Fee
Letter Agreements – complex	\$2,700	Flat Fee
Vending Permit	\$800	Flat Fee
Bait Receiver Permit	\$800	Flat Fee
Transportation Services Permit – simple	\$1,100	Flat Fee

Transportation Services Permit – complex	\$2,900	Flat Fee
Estoppel Certificate / Encumbrance	\$2,200	Flat Fee
Estoppel Certificate / Encumbrance – complex	\$4,000	Flat Fee
Gasoline Services Station Permit	\$2,000	Flat Fee
Right of Entry Permit – simple	\$1,000	Flat Fee
Right of Entry Permit – moderate	\$3,000	Flat Fee
Project Review and Approval (Concept Design) – simple	\$1,000	Flat Fee
Project Review and Approval (Concept Design) – moderate	\$1,800	Flat Fee
Project Review and Approval (Concept Design) – complex	\$5,150	Flat Fee
Project Review and Approval (Working Drawings) – simple	\$450	Flat Fee
Project Review and Approval (Working Drawings) - moderate	\$1,800	Flat Fee
Project Review and Approval (Working Drawings) - complex	\$5,150	Flat Fee
Consent to Sublease – simple	\$600	Flat Fee
Consent to Sublease – complex	\$3,400	Flat Fee
Consent to Assignment of Leasehold Interest or Other Modification/Document for Lessee's Benefit – Simple	\$2,900	Flat Fee
Consent to Assignment of Leasehold Interest or Other Modification/Document for Lessee's Benefit – Complex	\$3,400	Flat Fee
Bundled Fee for Routine Review (i.e. Basic Real Estate Agreement and Categorical Determination)	\$500	Flat Fee

(1) In addition to the above fees charged to recover Port costs, any external third-party consultant fees incurred in connection with the services listed above will be recovered as incurred.

Any waiver of a user fee shall be subject to the provisions of Board of Port Commissioners (BPC) Policy No. 106.

<i>Environmental & Land Use Management</i>	<i>Fee (1)</i>	<i>Fee Type</i>	<i>50% of Fee Estimate</i>
Non-Appealable Coastal Development Permit	\$16,000	Flat Fee	
Appealable Coastal Development Permit	Actual Cost (2)	Deposit	\$16,000
Emergency Development Permit	\$6,253	Flat Fee	
In Water Hull Cleaning (2-year permit)	\$250	Flat Fee	
Categorical Determination of Exemption/Coastal Exclusion	\$208	Flat Fee	
Negative Declaration	30% (3)	Admin Fee	
Mitigated Negative Declaration	30% (3)	Admin Fee	
Amendment to Port Master Plan	Actual Cost (2)	Deposit	\$70,000
Environmental Impact Report (EIR) Review	30% (3)	Admin Fee	
Environmental Impact Report (EIR) Addendum	30% (3)	Admin Fee	
Appeal of CDP to Coastal Commission	Actual Cost (2)	Deposit	\$7,500
National Pollution Discharge Elimination System (NPDES) Inspection, Construction	\$377	Flat Fee	
Storm Water Pollution Prevention Plan (SWPPP) – Plan Check <1 acre	\$778	Flat Fee	
Storm Water Pollution Prevention Plan (SWPPP) – Plan Check >1 Acre	\$3,560	Flat Fee	
Water Quality Management Plan (WQMP) (Standard Urban Stormwater Mitigation Plan (SUSMP)) - Review and Approval	\$4,714	Flat Fee	
Water Quality Management Plan (WQMP) - Best Management Practices (BMP) Inspection	\$442	Flat Fee	

Geographic Information System (GIS) - Project Support

\$567 Flat Fee

(1) In addition to the above fees charged to recover Port costs, any external third-party consultant fees will be recovered as incurred. In the event a third-party consultant is hired as a project manager, any associated and additional staff costs shall be charged as actual cost.

(2) Fees shown as actual cost will be charged on a time-and-expense basis, using fully burdened hourly rates applied against tracked Port staff time. Initial deposits will be collected at the time of application submittal and shall be the lower of \$7,500 or 50% of the estimated fee. Additional deposits may be required during the duration of the project.

(3) Certain environmental review fees are assessed a percentage based administrative fee that is 30% of the environmental consultant contract to recover staff costs.

Any waiver of a user fee shall be subject to the provisions of Board of Port Commissioners (BPC) Policy No. 106.

<i>Harbor Police</i>	<i>Fee (1)</i>	<i>Fee Type</i>
Vehicle Release Fee	\$232	Flat Fee
Vehicle Impound Hearing	\$100	Flat Fee
Subpoena Witness Testimony	\$275	Flat Fee
News Rack Permit	\$264	Flat Fee
News Rack Permit Renewal	\$158	Flat Fee
News Rack Removal	\$95	Flat Fee
Cargo Escort - Sergeant hourly	\$142	Hourly
Cargo Escort - Officer hourly	\$107	Hourly

(1) In addition to the above fees charged to recover Port costs, any external third-party consultant fees will be recovered as incurred.

Any waiver of a user fee shall be subject to the provisions of Board of Port Commissioners (BPC) Policy No. 106.

User fee waivers shall be in accordance with BPC Policy No. 106.

User fee dispute resolution shall be in accordance with BPC Policy No. 106.

FULL COST RECOVERY

Significant variances in staff required to provide certain services make application of a fixed user fee impracticable. In these instances, the applicant is charged for services provided on a reimbursement basis, using fully burdened hourly staff rates or, in some instances, a percentage based administrative fee based on outside consultant costs. These reimbursement user fees are designated in the Cost Recovery User Fee Schedule as "actual cost."

For all actual cost user fee items, an initial deposit (the lower of \$7,500 or 50% of the estimated fee) shall be collected to cover the Port's full cost, including overhead, incurred in conjunction with review and processing as requested by applicant. Additional funds may be collected, as required, to cover the Port's actual costs. Should the application be withdrawn at any time, the deposit shall be adjusted to cover the Port's actual costs, including overhead, up to that time. Any funds remaining on deposit at the time of completion or withdrawal of the application shall be returned to the depositor, after accounting for the expenses incurred to date.

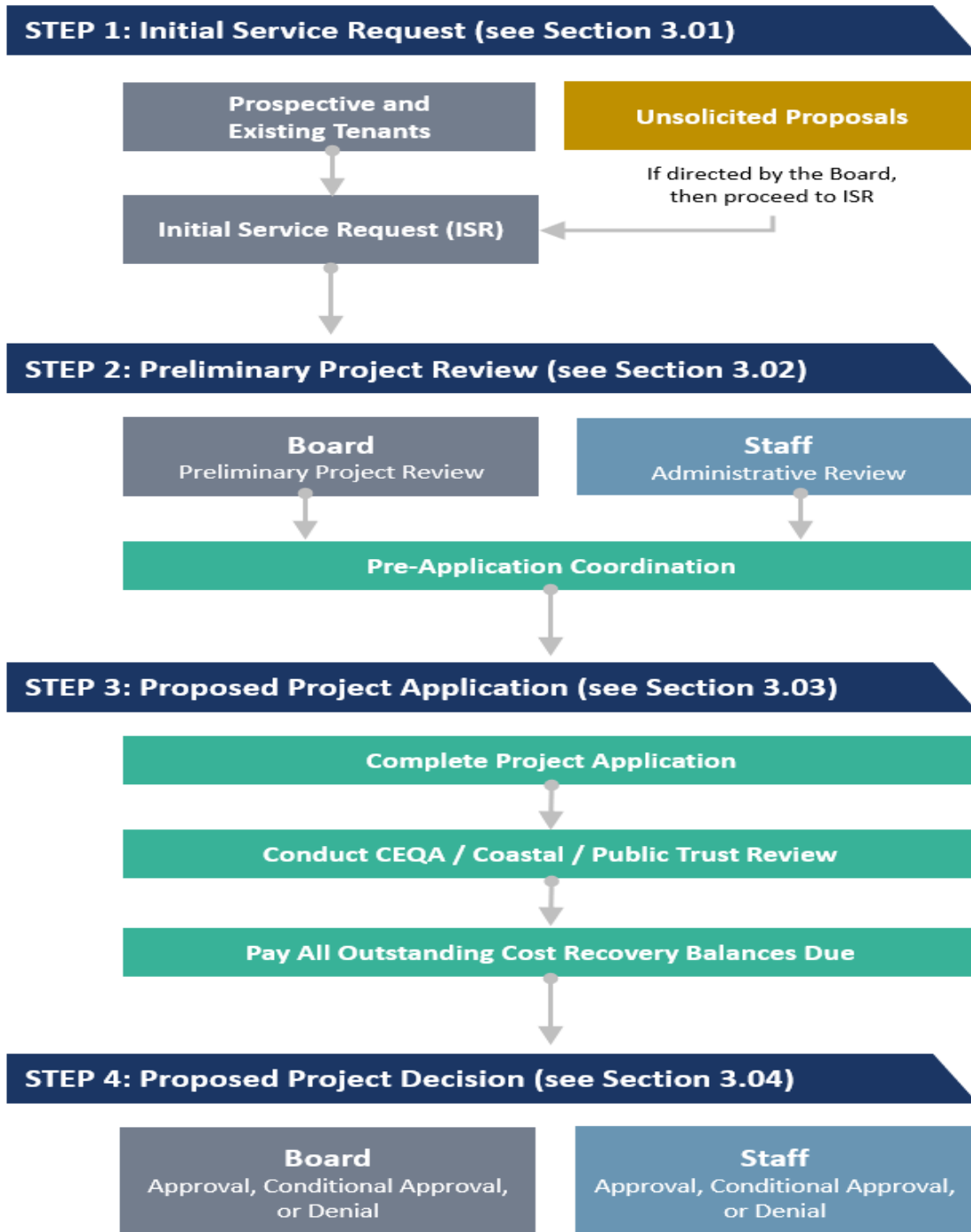
(Enacted August 12, 2014 – Ordinance No. 2776)

(Amended December 9, 2014 – Ordinance No. 2794)

(Amended February 10, 2015 – Ordinance No. 2797)

ARTICLE 3

TENANT PROJECT REVIEW



SECTION NO. 3.00 – GENERAL PROVISIONS

- (a) Title. The title of this Article shall be “Tenant Project Review.”
- (b) Purpose and Intent. The purpose and intent of this Article is to set forth requirements to process tenant project applications within the District’s jurisdiction; to establish clear guidelines, processes, and general time frames for the exercise of authority; to ensure that the District’s costs of granting development rights are reimbursed; and to ensure that the District can protect the public health, safety, and welfare.
- (c) Scope. This Article shall apply within the geographical limits and jurisdiction of the District including any areas subsequently acquired by any means.
- (d) Severability. If any word, phrase, sentence, part, section, subsection, or other portion of this Article, or any application thereof to any person or circumstance, is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.
- (e) Definitions. Certain words and phrases used herein are defined in Section 3.08, unless the context requires a different meaning.

(Enacted April 3, 2024 - Ordinance No. 3129)

SECTION NO. 3.01 – INITIAL SERVICE REQUEST

- (a) Requirement to File an Initial Service Request. All Persons seeking to conduct an activity requiring possession of District real property shall first notify the Reviewing Department in writing of the proposed activity unless the activity has already been reviewed and approved by the District. Notification is effective only if made through an Initial Service Request. The Initial Service Request is not a Project Application.
- (b) Authority to Submit an Initial Service Request. An Initial Service Request may be submitted only if:
1. The Person is an existing District tenant with the real property rights necessary to complete the activity; or
 2. The Person has a valid right to use the Property or a contingent interest in the Property for the activity; or
 3. Staff is in negotiations with the Person for the real property rights necessary to conduct the activity pursuant to one or more of the following authorities:
 - a) The Board has directed Staff to negotiate with the Person, or
 - b) The real property rights required to complete the activity are:
 - 1) Within Staff's authority to grant and
 - 2) Staff authorizes the Person to submit an Initial Service Request

- (c) Unsolicited Proposals. Nothing in this Article shall limit the Board's discretion to consider Unsolicited Proposals. Any Commissioner, or Staff, may request to add an item to the Board agenda that would provide an informational presentation on an Unsolicited Proposal and recommend that the Board direct Staff to process it in accordance with this Article. If directed by the Board, then the Person with an Unsolicited Proposal may submit an Initial Service Request in accordance with the requirements of this Article. Nothing in this Article grants a right or entitlement to a Person that an Unsolicited Proposal will be placed on a Board agenda for Board consideration.
- (d) Evaluation of Initial Service Request. The Reviewing Department shall evaluate the activity described in the Initial Service Request to determine what District review may be required.
1. District Review Required. All activities require District review as determined by the Reviewing Department unless an exception applies.
 2. Exceptions from District Review. No further review of the activity will be required, and the Reviewing Department shall notify the Person that the activity may move forward, only if there is no feature of the activity that could be considered a Project or Development, including but not limited to:
 - a) Routine interior maintenance and repairs.
 - b) Interior redecorating with like materials and finishes and replacement of interior furniture, fixtures, and equipment (FF&E).

c). Similar replacements of existing interiors.

(Enacted April 3, 2024 - Ordinance 3129)

SECTION NO. 3.02 – PRELIMINARY PROJECT REVIEW

- (a) Reviewing Authority. The Reviewing Department shall determine whether the activity will be subject to Preliminary Project Review as described below.
1. Required - Preliminary Project Review. Preliminary Project Review is required if the activity may require a CEQA document (Environmental Impact Report (EIR) or Subsequent or Supplemental EIR, Mitigated Negative Declaration (MND) or Subsequent MND, or Negative Declaration) and at least one of the following:
 - a) Board approval of a Coastal Development Permit (CDP) or a material amendment to an already approved CDP, or
 - b) Board approval of an amendment to the Port Master Plan.
 2. Requested - Staff Discretion to Request Preliminary Project Review. For an activity that does not meet the requirements above, the Director of the Reviewing Department may seek Preliminary Project Review for any reason including but not limited to regional impacts, cost, public profile, security, or any combination thereof.
 3. Not Required – Staff Review and Approval Only. For all other activities not subject to Preliminary Project Review, Applicant shall proceed to Pre-Application Coordination.
- (b) Board Direction to Commence Environmental Review. Activities subject to Preliminary Project Review must include a Pre-Design package for the Board's review. The Board may, in its sole and absolute discretion, direct Staff to process the activity as a Proposed Project and commence CEQA review, commence

CEQA review with modifications or options, or not commence CEQA review. Public Trust Doctrine review, and certain California Coastal Act reviews, can occur during CEQA review. Preliminary Project Review and direction to commence CEQA review shall not be considered an approval and the Board reserves all its legal discretion.

- (c) Pre-Application Coordination. As defined by the Reviewing Department, one or more coordination meetings between the Applicant and the District are required prior to Applicant filing a Project Application unless waived in writing by the Director of the Reviewing Department.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.03 – PROPOSED PROJECT APPLICATION

- (a) Project Application. Applicants shall complete a Project Application which shall be returned to the District for processing. Staff shall prescribe the form in which Project Applications are made and maintain a list specifying the materials and information to be submitted with each Project Application.
- (b) Filing a Project Application. A Project Application shall be filed in accordance with the provisions of this Article and processed in accordance with applicable law. Project Applications shall be numbered consecutively in the order of their filing and shall become a part of the District's official records. The Project Application shall include the materials and information required on the date the Project Application is filed, unless otherwise specified by the Port Code or applicable law.
1. Evaluation for Completeness. The Project Application shall be deemed complete when the Reviewing Department has determined that the Project Application includes all information and materials required. At any time during the initial evaluation and subsequent processing of the Project Application, Staff may request that the Applicant clarify, simplify, or provide additional information or information required for the Project Application. Staff may also utilize third-party consultants acting under Staff's direction to evaluate for completeness.

2. Cost Recovery. All Proposed Projects shall be subject to the requirements of Article No. 2.00 Cost Recovery of this Port Code, including but not limited to responsibility for the costs of CEQA, Coastal Act, and project review, as well as the costs of environmental and coastal analysis or project management functions conducted by a third-party consultant through one or more three-party agreements in form and content satisfactory to the District. If third-party consultants are needed, Staff shall solely select the third-party consultant(s) and direct the third-party consultant(s). Staff may in their sole and absolute discretion, but have no duty to, share the environmental review with the Applicant prior to public review of the CEQA document if applicable. Staff shall prepare a cost estimate including third-party consultant costs required to complete the District's review of the Proposed Project. Staff shall invoice the Applicant periodically for any applicable Cost Recovery Fees. Prior to the approval, conditional approval, or denial of a Proposed Project by Staff or the Board as applicable, Applicant must pay all applicable Cost Recovery fees. Nothing in this Article gives an Applicant a right to review or comment on administrative drafts of CEQA review, CDP(s), or amendments thereto or other analyses.
3. Withdrawal. An Applicant may withdraw a Project Application in writing at any time subject to payment in full for all amounts due to the District as of

the effective date of withdrawal, including but not limited to cost recovery as defined in Article No. 2.00 Cost Recovery of this Port Code.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.04 – PROPOSED PROJECT DECISION

- (a) Processing a Complete Project Application. Following receipt of a Complete Project Application, the Reviewing Department shall process it in accordance with all applicable District policies, procedures, and practices as well as all laws including but not limited to CEQA and the Coastal Act (including preparation of a CEQA document, Port Master Plan Amendment, or Coastal Development Permit as may be required), and ordinances adopted pursuant thereto, in addition to all other lawful requirements.
- (b) Discretionary Approval, Conditional Approval, or Denial. Once the Reviewing Department has completed its review and all CEQA review has been completed and approved, the Reviewing Department shall do one of the following:
1. If Board review is required, then Staff shall present their recommendations regarding the Proposed Project to the Board for discretionary approval, conditional approval, or denial which may include, but not limited to, approval or adoption of a Port Master Plan Amendment, authorization of a CDP or material CDP Amendment, or other discretionary approvals.
 2. If Board review is not required, then Staff shall approve, conditionally approve, or deny the Proposed Project.
- (c) Written Approval or Denial of Proposed Project. All determinations made by the Reviewing Department, or the Board shall be communicated in writing to the Applicant. A Proposed Project that is approved or conditionally approved shall

become an Approved Project and shall submit progressively detailed drawings and information as may be required by the Reviewing Department.

- (d) Changes to an Approved Project. The Applicant shall comply with all conditions of approval. Applicant understands that the Approved Project cannot move forward until the Reviewing Department has provided written approval for the changes.

Changes to an Approved Project shall be processed as follows:

1. Following approval, if an Applicant requests changes to an Approved Project including but not limited to drawings, plans, specifications, and revised project description narrative or summary of changes, then such changes shall be submitted to the Reviewing Department in writing and reviewed for substantial conformance to the Approved Project.
2. Changes to an Approved Project may require subsequent CEQA environmental review or additional Coastal Act processing as determined by Staff.

- (e) Dispute Resolution Process. If the Applicant disagrees with the denial of a Proposed Project by the Reviewing Department or one or more conditions of approval imposed by Staff, then the Applicant may appeal as follows:

1. First, to the District's Executive Director through a written objection clearly stating the reasons for the objection and filed with the Reviewing Department by no later than five (5) business days following the determination.

2. Second, if the District's Executive Director concurs with Staff's determination, then to the Board through a written objection clearly stating the reasons for the objection and filed with the Office of the District Clerk by no later than five (5) business days following the determination.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.05 – APPROVED PROJECT CONSTRUCTION

- (a) Prior to commencement of construction, Applicants must provide the Reviewing Department the following:
1. Verification that all pre-construction conditions have been completed to the satisfaction of the District, and
 2. Copies of any permits, licenses, approvals, or other authorizations necessary for commencement of construction issued by any governmental agency, as well as copies of permits subsequently obtained.
- (b) After the Approved Project is fully constructed, all Applicants shall deliver to the Reviewing Department a written notice of completion with As-Built Drawings and evidence that all required inspections have been passed, all required permits have been obtained, and all applicable conditions of approval have been satisfied. Applicants must also provide evidence of compliance and any applicable reports to resource and permitting agencies. A temporary Certificate of Occupancy shall be acceptable to the District for the purpose of complying with this section so long as it is followed by a final Certificate of Occupancy delivered to the District once obtained.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.06 – MONITORING AND INSPECTIONS

- (a) District Staff Authority. The Executive Director and authorized designee may monitor activities and inspect facilities within or doing business from the District's jurisdiction, whether or not occupied, at reasonable times, in a reasonable manner, and with reasonable notice to carry out the purposes of this Article or any applicable statute, rule, code or regulation enforceable by the District.
- (b) Construction Inspection. Staff shall inspect Approved Projects to ensure compliance with District conditions of approval to ensure construction is in substantial conformance to the conditions of the Project Approval, Field Directives, construction measures, and any special conditions identified in the Coastal Development Permit if applicable.
- (c) Scope of Monitoring. Monitoring may include any and all actions necessary to determine compliance with this Article, District-issued permits, and conditions of approval. Monitoring may include, but may not be limited to, sampling, taking measurements, metering, and placing devices necessary to sample, monitor, meter, record, visually inspect and review records. When samples are collected, the Applicant or Authorized Agent may request and receive split samples. Records, reports, analyses, or other information required under this Article may be inspected and copied, and photographs taken to document a condition and/or a violation of this Article.

- (d) Inspection and Monitoring Work Product and Costs. Any work product not subject to the attorney-client privilege that is generated by the District pursuant to an inspection and monitoring shall be timely shared with the Applicant following Applicant's request in writing. All inspection and monitoring costs shall be borne by the District unless and to the extent the inspection and monitoring substantiates one or more violations, in which case, the Applicant shall pay all third-party costs excluding the District's staff time.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.07 – VIOLATIONS AND ENFORCEMENT

(a) Violations. The following are violations of this Article and may be enforced by Staff or the Board, or both, under this Section 3 or Section 12 of the District's Coastal Development Permit Regulations, or the Coastal Act, or all three:

1. Commencement of an activity which has not obtained the required discretionary approval pursuant to this Article.
2. Failure to comply with the conditions of a discretionary approval or causing, allowing, aiding, or abetting non-compliance.
3. Commencement of corrective actions for violations of this Article must commence within ten (10) business days after the District notifies the Applicant of a violation in writing, Applicant shall commence and diligently pursue to completion the activities necessary to correct the violation. Each day or part thereof that action necessary to correct a violation is not initiated and diligently pursued is a separate violation.
4. A separate violation may be considered to have taken place for each day of non-compliance with this Article exists.
5. It is unlawful to make any false statement or misrepresentation to the District or its agents concerning compliance with this Article. False statements or misrepresentations may include, but are not limited to, any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted by or pursuant to this Article. It is unlawful to conceal a violation of this Article

- (b) Penalties. Violations related to a Coastal Development Permit or the Coastal Act may result in judicial action against the violator, referral to the California Coastal Commission, civil penalties, fines, a notice of violation recorded against the leasehold interest, a cease and desist order as authorized by the Port Act, the Port Code including but not limited to Article 0, the California Coastal Act (see Public Resource Code §30800 et seq.), or any other law, or any combination thereof.
- (c) Exclusions. Excluded from this Subsection are legal nonconforming uses established prior to enactment of regulations that require discretionary approval for the activity.
- (d) Notice of Violation. Staff shall orally notify the alleged violator by telephone or in person of the violation, followed by a written notice given by certified mail or hand delivered to the alleged violator. The notice shall include the following:
1. A description of the activity which constitutes the violation.
 2. A statement that the described activity constitutes a violation of this Article.
 3. A statement that the described activity be immediately stopped and cured, or the alleged violator may be subject to penalties.
 4. The name, address, and phone number of the Staff which is to be contacted for further information.

(Enacted April 3, 2024 – Ordinance 3129)

SECTION NO. 3.08 – DEFINITIONS

- (a) Definitions. Certain words and phrases used herein are defined in this Section unless the context requires a different meaning.
1. “Applicant” means any of the following:
 - a) a Person who has properly submitted a Project Application and is the record lessee of the real property that is the subject of the activity;
 - b) the record lessee’s Authorized Agent;
 - c) any other Person who can demonstrate a legal right, interest, or entitlement to the current or future use of the real property; or
 - d) a Person that has an existing legal agreement with the District to process a Project Application.
 2. “Approved Project” means a Proposed Project which has been reviewed and approved with or without conditions and with or without modifications by Staff, the Board, or both in accordance with this Article and any applicable regulations and laws.
 3. “As-Built Drawings” means all plans and specifications for the Approved Project that include all modifications to the original design during construction. For all Approved Projects approved by the Board, As-Built Drawings must include a fully functional, intelligent digital twin of the Approved Project suitable for the District’s use and reference.

4. “Authorized Agent” means an agent acting on behalf of the record lessee as its representative where the record lessee has signed and submitted in writing a record granting the authority to represent the record lessee and to submit an Initial Service Request or file a Project Application and may include authorization to process the Application in part or entirety.
5. “Board” means the District’s Board of Port Commissioners.
6. “CEQA” means the State of California Guidelines for the California Environmental Quality Act, codified as California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq., and the District’s Guidelines for Compliance with CEQA on file in the Office of the District Clerk as Document No. 36294, as amended.
7. “Complete Project Application” means a Project Application that meets all submittal requirements as determined by the Reviewing Department.
8. “Development” means development as defined in California Public Resources Code Section [30106](#) and any associated laws, regulations, and judicial decisions.
9. “District CDP Regulations” means the San Diego Unified Port District’s Coastal Development Permit Regulations on file in the Office of the District Clerk as Document No. 19171, as amended from time to time.
10. “District Conditional Project Approval” means the written documentation issued by the Reviewing Department and countersigned by the Applicant

that a Proposed Project is an Approved Project and specifying therein the extent of the approval(s) granted.

11. “Initial Service Request” means a form submitted by a Person to Reviewing Department to notify the District of a proposed activity to be conducted in the District’s jurisdiction, whether or not the activity is later determined to be a Project which includes a Pre-Design package.
12. “Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.
13. “Pre-Design” means a brief project description accompanied by site plan, schedule, and cost estimate.
14. “Preliminary Project Review” means review by the Board to determine whether and to what extent an activity may become a Proposed Project.
15. “Project” means any activity consistent with the definition of a project under CEQA as codified in California Public Resources Code Section 21065 and any associated laws, regulations, and judicial decisions.
16. “Project Application” means an application for a Project submitted after an Applicant has completed the Initial Service Request process.
17. “Proposed Project” means any Project which is under review by the Reviewing Department and has not yet been approved by Staff, or the Board, or both as may be required.

18. “Reviewing Department” means one or more District department(s) responsible for processing Project Applications as designated by the Executive Director from time to time.
19. “Staff” means District staff as determined by the District’s Executive Director or their designee.
20. “Substantial Conformance” means a minor change to an Approved Project which does not require further CEQA review and does not substantially change the original approval or the effect of the approval on surrounding property. Changes to Approved Projects including but not limited to the following, may be found to be in substantial conformance:
 - a) Necessary to comply with requirements from other public agencies.
 - b) Made to comply with original conditions of approval.
 - c) Minor revisions and modifications.
21. “Unsolicited Proposal” means any proposal for Development received by Staff or the Board which is not the result of a District-initiated solicitation (Request for Qualifications, Request for Proposals, or other) or submitted by an existing District tenant pursuant to Board policies.

(Enacted April 3, 2024 – Ordinance 3129)

ARTICLE 4MARINE OPERATIONS**SECTION NO. 4.01- REGULATION OF VESSELS – DISABLED, GROUNDED AND BEACHED**

- (a) Any disabled vessel or any vessel in such condition as to create a danger to persons or property shall be subject to, and the owner or person in custody or control of such vessel shall comply with, all orders or directions of the Executive Director or his or her designee with regard to the disposition of such vessel.
- (b) It shall be unlawful for the owner or person in custody or control of any vessel or structure to ground or beach said vessel or structure on San Diego Bay tide or submerged lands for the purpose of performing repairs or maintenance without the express prior permission of the Executive Director, or his or her designee.
- (c) It shall be unlawful for the owner or person in custody or control of any vessel or structure to ground or beach said vessel or structure on San Diego Bay tide or submerged lands and leave said vessel unattended. For the purpose of this Section, a vessel or structure shall be deemed unattended when the vessel or structure has been beached or grounded and the owner/operator or watchman does not remain in the immediate area for a period of more than Three (3) hours. This Section shall not apply to any designated, dinghy landing area. The grounding,

beaching, launching or retrieving of any vessel or structure in any wildlife sanctuary or protected lands shall be unlawful.

- (d) Any vessel beached or aground in violation of any provision of this Section shall be subject to removal and storage by any Harbor Police Officer pursuant to Section 8.25(a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of any vessel removed and stored pursuant to this Section. Any violation of this Section is a misdemeanor.

(Enacted April 5, 1966 – Ordinance No. 215)

(Amended June 15, 1976 – Ordinance No. 730)

(Amended December 13, 1977 – Ordinance 783)

(Amended March 9, 2004 – Ordinance 2283)

SECTION NO. 4.02 – REGULATION OF VESSELS – BERTHING AND MOORING

Any vessel berthing at a wharf, pier or bulkhead or mooring in the harbor shall be subject to, and the owner or person in custody or control of such vessel shall comply with, orders or directions of the Port Director with regard to such berthing or mooring.

(Enacted April 5, 1966 – Ordinance No. 215)

SECTION NO. 4.03 – REGULATION OF VESSELS – INSPECTION OF VESSEL, CARGO OR CREW

The Port Director may at any time enter upon any vessel berthed or moored in the harbor and inspect said vessel to ascertain its condition, the nature of its cargo or the condition of its crew.

(Enacted April 5, 1966 – Ordinance No. 215)

SECTION NO. 4.04 – REGULATION OF VESSELS – SPEED REGULATIONS

It shall be unlawful for any person to operate a vessel or watercraft in the harbor at a speed that is greater than reasonable or prudent, having due regard for vessels, property or persons in said harbor, and in no event at a speed which endangers the safety of persons or property.

(Enacted April 5, 1966 – Ordinance No. 215)

**SECTION NO. 4.05 – REGULATION OF VESSELS – USE OF WHARF FACILITIES
TO BREAK, WARP OR TURN VESSEL PROHIBITED**

It shall be unlawful to use any wharf or pier to break, warp or turn a vessel, or to turn or swing a vessel with the stem of such vessel against a wharf or pier.

(Enacted April 5, 1966 – Ordinance No. 215)

SECTION NO. 4.06 – REGULATION OF VESSELS – MOORING TO AIDS TO NAVIGATION

It shall be unlawful to moor or attach any vessel to any aid to navigation in the harbor except in an emergency when necessary for the safety of persons or property.

(Enacted April 5, 1966 – Ordinance No. 215)

SECTION NO. 4.07 – REGULATION OF VESSELS – MOORING RESTRICTIONS

- (a) No person shall moor or make fast any vessel to any float, wharf, pier, harbor facility or structure of any kind in San Diego Bay without the consent of the owner, agent, or person in lawful possession thereof.
- (b) It shall be unlawful for the owner or operator of any vessel that is made fast or moored to any float, wharf, pier, harbor facility or structure of any kind in San Diego Bay to fail or refuse to immediately remove such vessel therefrom after being notified to do so by the owner, agent, or person in lawful possession of such float, wharf, pier, harbor facility or structure.

(Enacted March 28, 1972 – Ordinance No. 566)

SECTION NO. 4.08 – REGULATION OF VESSELS – ANCHORAGES**(a) Purpose**

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix I, Sections 55 and 56) requires the Board of Port Commissioners to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this Section of the San Diego Unified Port District Code is to implement that responsibility within the anchorages of San Diego Bay.

(b) Definitions

Certain words and phrases used herein are defined as follows, unless the context requires a different meaning:

1. “Anchorage” – Any portion of the anchorages which has been designated by competent authority for the anchoring of vessels.
2. “America's Cup Harbor Moorage” -That body of water lying northeast of Shelter Island Drive, southeast of Scott Street, south of Harbor Drive, and northwest of an imaginary line drawn from the Shelter Island Launching Ramp breakwater and the Naval ASW School Piers.

3. “Bay Bridge Roadstead Anchorage” – That body of water within San Diego Bay lying between Stations 529 and 531-A on the combined U.S. Pierhead-Bulkhead Line as established by the Army Corps of Engineers in 1969, on the east, the City of San Diego-City of Coronado adjudicated boundary line on the north, the State of California northerly right-of-way line for the San Diego-Coronado Bay Bridge on the south, and Stations 529 and 531 on the former U.S. Pierhead Line, as established by the Army Corps of Engineers in 1963, on the west.
4. “Embarcadero Moorings” – Those Mediterranean moorings located between the north side of Grape Street Pier No. 1 and the United States Coast Guard Station in the City of San Diego within the areas bounded by the face of the wharf and extending bay ward a distance of 200 feet.
5. “Laurel Street Roadstead Anchorage” – That body of water located between the safety zone of the United States Coast Guard on the north, the commercial piers at the foot of Hawthorn Street on the south, and the pierhead line on the west.
6. “Shelter Island Roadstead Anchorage” – Those areas included within that body of water within San Diego Bay, triangular in shape, containing 1,066,337 square feet of 24.5 acres of water-covered

area lying between Stations 429 and 435 on the combined U.S. Pierhead-Bulkhead Line as established by the Army Corps of Engineers in 1965, on the west, the southeasterly prolongation of Stations 435 and 437 of the said combined U.S. Pierhead-Bulkhead Line, on the north, the westerly limits of an easement (P.A. Permit No. 4716.9) granted by the State of California to the City of San Diego in 1972, on the east, more particularly described as follows: Anchorage 1a generally being that area lying southeasterly of Shelter Island and between boundary markers A and B; Anchorage 1b generally being that area lying southeasterly of Shelter Island and southwesterly of the existing boat launching facilities and between boundary markers C and D; and Anchorage 1c generally being that area lying southeasterly of Shelter Island and northeasterly of the existing boat launching facilities and between boundary markers E and F.

7. “Anchoring” – Attachment of a vessel to the bottom or the shore of San Diego Bay, using equipment, lines, rope, chain or cable which is carried onboard the vessel as regular equipment when underway.
8. “Ark” – A vessel which is incapable of navigating over the surface of the high seas, as defined herein, or which is incapable of getting

underway; or which does not have proof of Coast Guard safety inspection and registration; or which does not have a Department of Motor Vehicles registration; or which has no propulsion system, as defined herein.

9. “Dinghy” – A small boat propelled by oars, sails or motor which is capable of being carried aboard the vessel and which does not exceed Twelve (12) feet in length, provided, however, upon prior written authorization from the Executive Director of District or his designated representative, said dinghy may be longer than said Twelve (12) feet.
10. “Dinghy Dock” – A dock designated for tie up of dinghies.
11. “District” – The San Diego Unified Port District.
12. “Dock” – A non-floating structure designed and constructed for the mooring of vessels, includes wharf or pier as defined in this Section.
13. “Executive Director” -Executive Director of San Diego Unified Port District or his authorized designee.
14. “Fire Access” – A clear zone on either land or water which is set aside for the accommodation of firefighting vessels or equipment.
15. “Floating Residence” – An ark with liveaboards.

16. “Gray Water” – Shower water that does not have any toilet, sewage, waste or polluted bilge water within it.
17. “High Seas” – Those waters outside of San Diego Bay beyond an imaginary line between Zuniga Jetty Light "Z" and Point Loma Light.
18. “Inland Waters” – Those waters of San Diego Bay lying northerly and easterly of an imaginary line drawn between Zuniga Jetty Light "Z" and Point Loma Light.
19. “Landing” – A portion of the shore, unimproved, or improved with marine structures, floats, or otherwise designated as a place for small boats to land.
20. “Liveaboard” – Any person who shall occupy a vessel with the intent that such vessel shall be his or her sole residence.
21. “Major Repairs or Maintenance” – Welding or spray painting on the exterior of a vessel, exterior sandblasting, and any work beyond repair or replacement of electrical equipment, mechanical or hydraulic components, or repair and adjustment to machinery which remains onboard the vessel.
22. “Marine Sanitation Device” – Toilet equipment (United States Coast Guard Approved) designed to receive human waste onboard the vessel.

23. “Moorage” – Any portion of anchorages which has been designated by competent authority as a place for vessels to moor.
24. “Moor (verb)” – To fix a floating vessel to the bottom in one location, temporarily or permanently, by the use of cables, lines, chains, or other equipment remaining attached to the bottom at all times.
25. “Mooring Permit” – A document conferring the right to use the buoy or mooring device described and identified in said Mooring Permit for a prescribed period.
26. “Permittee” – The legal owner, operator or individual in possession of a vessel, using a mooring by authority of the District, under a Mooring Permit.
27. “Pier” – A structure built upon pilings driven into the bay bottom, designed and outfitted for the mooring of vessels.
28. “Propulsion System” – A system which is designed to propel a vessel through the water. A propulsion system may include, but is not limited to sails, internal combustion engines, steam reciprocating or turbine engines, gaseous or liquid jets.
29. “Seaworthy” – Describes a vessel in good material condition which is not likely to sink or become a menace to navigation or a nuisance, and which is capable of getting underway and navigating over the surface of international waters or high seas.

30. “Sewage” – Human body waste, either treated or untreated.
31. “Slip” – A vessel's mooring space.
32. “Transient Vessel” – As applied to mooring; migratory means remaining for a short and indefinite time – as between ports on a voyage – temporary and irregular. As applied to a mooring permit, a vessel applying to stay in San Diego Bay for up to Thirty-One (31) days.
33. “Vessel” – A structure designed to float upon the surface of a body of water.
34. “Waste” – Sewage and all other waste, substances associated with human habitation; or human or animal waste.
35. “Wharf” – A non-floating structure constructed parallel to the shoreline, designed and outfitted for the mooring of vessels.

(c) Authority of Executive Director

The Executive Director of District or his designated representative shall have authority to enforce the provisions of this ordinance and all lawful regulations and laws affecting the anchorages. It shall be the duty of the Executive Director or his designee to:

1. Carry out and enforce the orders of the Board of Port Commissioners of District, the provisions of this ordinance, and all regulations and laws affecting the anchorages.

2. Assign moorings to vessels within the anchorages.
 3. Execute, on behalf of the District, Mooring Permits for the assignment of moorings to vessels within the anchorages.
 4. Order any vessel improperly moored, anchored, or in violation of any provision in this Section or any applicable ordinance, to change its position to one he shall designate, or to remove same from the anchorages, and in the event his orders are not complied with, to cause such vessel to be moved and to collect the cost thereof from such vessel, Permittee, or owner.
 5. Report promptly to the proper authorities any violation of the laws of the United States for the protection of navigation or any violation of the State or local laws or regulations.
 6. Insure through inspection that all vessels mooring in the anchorages are in compliance with all navigational, maritime, Federal, State, local and District laws and regulations, including but not limited to those mentioned in this Section.
- (d) Removal of Vessel – Upon the expiration of a Mooring Permit or the sooner termination as herein provided, the owner, after receiving notification by Certified Mail, will remove within Thirty (30) days the vessel, debris, and other materials from the water area forming a part of or adjacent to the mooring, so as to leave the same in as good condition as

when first occupied. If any said vessel, debris, and other material shall not be so removed within Thirty (30) days, District may remove the same at the expense of the owner; and the District will charge the owner the cost of such removal.

(e) Mooring Assignment

- a) No person (including the owner, master, operator or person in legal control and custody of a vessel) shall moor or anchor a vessel at or in the anchorages without first having secured a Mooring Permit from the District in the form and manner provided therefor. Proof of vessel ownership shall be presented upon application for a mooring permit; provided, however, a person who notifies the District, in writing, that the vessel is not presently owned but is being acquired or purchased by that person, and proof of ownership of the vessel in the name of such person will be provided to the District within Sixty (60) days, may file such an application and pay the application fee, provided further if such proof of ownership of the vessel is not provided within Sixty (60) days after such filing, the application shall be void and the

application fee shall be retained by the District. In addition, the person's name shall be removed from the waiting list.

- b) Mooring Assignments shall be made from a separate chronological waiting list for each District anchorage. The list is available at the District Clerk's office. There shall be a separate non-refundable mooring application fee for each waiting list equal to One-Half (1/2) of the mooring fee established for a One (1) calendar month period. Said application fee shall be applied as payment towards the monthly mooring fee. Persons requesting a consecutive mooring assignment in the same mooring area shall not be required to submit an application. A vacant mooring will be offered first to that person highest on the list for that size mooring, and then, if refused, in sequence to those next on the list. Notifications of available vacant moorings will be made by mail and applicant must respond and execute a Mooring Permit within Ten (10) working days or their name shall be removed from the waiting list. The application fee shall be forfeited if the applicant withdraws his/her name from the waiting list or refuses to accept a vacant mooring within the response period provided to the applicant.

- c) No more than One (1) Mooring Permit shall be issued to any owner, master, operator or person in legal control and custody of One (1) or more vessels. Once a mooring buoy is assigned for a Twelve (12) Month period, the Director of Marine Operations, or his authorized designee, shall have the authority to reassign the Permittee to another buoy after the District notifies the Permittee by Certified Mail of such reassignment. Notwithstanding, on an emergency basis as determined by the District, reassignments without notice can be made by the District.
 - d) After Thirty-One (31) days of continuous permitted use, a given transient vessel will have at least a Fourteen (14) day wait period before being considered for a mooring assignment.
 - e) District may assign up to Twelve (12) temporarily unassigned moorings for use by transient vessels for up to Thirty-One (31) days.
2. In order to receive a mooring assignment, the execution of a Mooring Permit is required. In addition, verification of ownership, verification of registration, verification of insurance, and inspection for seaworthiness, sanitary facilities, waste containers, safety and

fire suppression equipment and other safety and health-related equipment required by existing laws is required.

3. Vessels must have a propulsion system and be able to get underway on demand and navigate upon the high seas.
 4. Mooring assignments are for One (1) vessel only and cannot be transferred to another party or vessel without the written approval of the Executive Director. Only One (1) transfer per year of a Mooring Permit from one vessel to another vessel is allowed. Such transfer must be under the same ownership and occupy the same mooring buoy.
 5. A mooring assignment must be accepted within Ten (10) working days of notification, by payment of applicable fees and deposits.
- (f) Mooring Purposes Only – A Mooring Permit shall authorize the holder thereof to use the facilities for mooring purposes only and grants no further rights, privileges or uses. Additional or varying uses shall not be allowed except as provided in the ordinances and regulations of the District.
- (g) Reassignment of Mooring Space – The District may, from time to time, require the reassignment of mooring space to Permittee. Permittee will be notified by Certified Mail of such reassignment by the District and shall, within Thirty (30) days of receipt of such notice, move its vessel to such

reassigned space. Failure to so move a vessel, within the Thirty (30) day period, shall be cause for revocation of the Mooring Permit and Permittee's vessel may be removed thereafter by District. Such failure shall also be a violation of the District Code, Section 4.07.

- (h) Notice of Cancellation of District – Permittee shall give the District Thirty (30) days' notice of cancellation of the Mooring Permit. Mooring Permit fees will be prorated to the date of cancellation so given. Any remaining prepaid fees shall be returned to Permittee within Thirty (30) days following such cancellation.
- (i) Refusal to Issue Mooring Permit – District shall have the right, at all times, to refuse to issue or reissue a Mooring Permit to any vessel unless it is seaworthy, properly maintained, and does not present a danger to District's property or other vessels.
- (j) Mooring Fees – Mooring fees and charges for Mooring Permits shall be adopted by resolution of the Board of Port Commissioners.
- (k) Payment of Mooring Fees – The first month's mooring fees and other charges are payable in full at the time of issuance by District of the Mooring Permit. All mooring fees and charges for use of slip for less than Thirty-One (31) days shall be payable at the time of the issuance of the Mooring Permit by District. Mooring fees and charges for use of a slip for a period greater than Thirty-One (31) days shall be payable before the Tenth

(10th) day of the month. A Fifteen Dollar (\$15.00) late fee shall be due and payable if a mooring account remains due and unpaid after the Ninth (9th) day of the month.

- (l) Security Deposit – For long-term Mooring Permits, more than Thirty-One (31) days, the District shall charge, in addition to the above fee for a Mooring Permit, a security deposit which shall be a sum equal to Two (2) month's mooring fees, or the total amount of the fees charged if the time for fee is less than Two (2) months. The Mooring Permit shall provide for this method of such deposit.
- (m) Change of Mooring Fees -The District reserves the right to change the mooring fees upon Thirty (30) days' notice, by depositing such notice in the United States Mail, directed to the Owner or Operator of the vessel as shown on the front page of the Mooring Permit.
- (n) Tampering With or Boarding Vessels – It shall be unlawful for any person to willfully injure, break, remove or tamper with any part of any vessel in the Anchorages, any waterway or facility thereof, or to climb into or upon any vessel without the consent of the owner unless in the performance of official duties or to protect life or property.
- (o) Vessel Inspection – The District reserves the right as provided by law to inspect any vessel moored, or requesting moorage, for proper safety, sanitation, mechanical, or other devices or equipment as may be

prescribed by law. The District will give reasonable notice to the owner of any vessel of such inspection authorized by the District for the purpose of health and welfare concerns.

- (p) District may accept proof of successful completion of a United States Coast Guard Auxiliary Courtesy Marine Examination as evidence of fulfilling this requirement in Section (o), above.
- (q) Insurance – Permittee shall maintain insurance satisfactory to the District and in the form and amounts to be determined by the District. Permittee shall be required to hold harmless and indemnify the District.
- (r) Port's Right Upon Nonpayment or Abandonment – In the event moorage charges or any other charges due to the San Diego Unified Port District become delinquent or if the vessel is deemed abandoned, the District may, at its option, secure and take possession of the vessel so that it cannot be removed from District facilities until all charges then owing and any charges which shall thereafter accrue are fully paid. Measures taken by the District shall give notices as required by law prior to securing vessels; however, no prior notice of such action is required in the case of transient vessels or abandoned property. After Sixty (60) days the boat or other property may be sold at public auction. The District shall give such notices as are required by law.

- (s) Address Changes – Permittee is responsible for notifying the District of all changes. All notices shall be deemed properly mailed to Permittee when mailed to the last address provided to the District in writing by the Permittee.
- (t) Refuse
 - 1. No person shall throw, discharge or deposit from any vessel or from the shore or float, or in any other manner, any refuse matter, sewage, waste, fish parts, polluted bilge waters, or garbage of any kind whatsoever into or upon the water of the anchorages, or in, or upon the banks, walls, sidewalks, parking area, or any waters within the boundaries of the Harbor.
 - 2. No person shall dump or discharge oil, spirits, flammable liquid or polluted bilge water into the anchorages. All garbage shall be deposited in receptacles.
 - 3. No person onboard any vessel moored in the anchorages shall use the toilet onboard such vessel unless it is equipped with a suitable marine sanitation device or other approved device for sewage retention that is in proper working order.
 - 4. No person shall place or leave dead animals, fish, shellfish, bait, or other putrefying matter on or along seawalls, harbor structures,

floats, piers, sidewalks or parking areas of any anchorages or throw or deposit such materials in the waters of such areas.

5. Pets shall not be allowed to commit any nuisance within any anchorages and the owners of said pets shall be responsible for cleaning up any nuisances or mess left by said pet. Dogs and other pet animals shall not be allowed on any dock, pier or on any anchorage grounds except while on a leash.

(u) Wharves, Floats and Piers

1. All vessels must be secured so that no part, including bowsprit, boom, boomkin or equipment shall extend into any portion of the access lane.
2. As defined in this Section, major repairs or servicing of a vessel in any anchorage is prohibited except upon the prior written authorization of the District. Vessel maintenance work shall be limited to that required to maintain a vessel seaworthy and in operable condition.
3. No person shall engage in exterior spray painting in any anchorage except as is authorized by the Executive Director or his authorized designee. The sanding of surfaces shall be by hand or small power sander only; and all persons sanding surfaces and/or painting shall

make all necessary efforts to control all sand, paint and dust and keep the same out of the anchorages.

4. No person shall display on any vessel a "For Sale" sign in excess of One Hundred Fifty (150) square inches on the face.
5. At such time as it may become necessary to perform work onboard a vessel involving use of welding or burning equipment, every person intending to engage in welding or burning onboard a vessel shall notify the District of the nature and extent of the proposed work, the workman or company doing the work, and the date and time the work shall be performed. This notification shall be given to the District prior to the start of the work and, whenever practical, at least One (1) day before the work is to be performed. All such work of welding or burning shall be performed only at an appropriate location or special anchorage. No person shall engage in welding or burning onboard a vessel in any location.
6. All construction materials, refuse, spare parts, surplus equipment or any other such material not needed for the direct operation of the vessel or the reasonable accommodation of the crew or passengers of the vessel shall be stored within an enclosed space on the vessel. Lighter vessels, barges or similar floating conveyances are prohibited.

7. Mooring lines shall be provided by the Permittee using a slip and shall be of sufficient number, strength and size to ensure that vessels remain securely moored under all conditions.

(v) Uses Prohibited

1. No business or commercial enterprise, including charters and vessels carrying passengers for hire, shall be conducted.
2. The tying/lashing of boats, dinghies or other small craft to any vessel, dock, wharf, pier or float, is prohibited except by written permission of the owners of said device, or the District, whichever is appropriate. No more than Two (2) dinghies or other small craft used for transportation to or from a vessel shall be permanently tied or lashed to a vessel without the written permission of the District.
3. No mooring space shall be used for a floating residence or ark at any time.

(w) Fishing

1. No person shall engage in fishing from the shore improvement walkways, fingers, or floats of any anchorage.

(Enacted June 9, 1998 -Ordinance No. 1982)

SECTION NO. 4.09 – REGULATION OF VESSELS – TUNA HARBOR BASIN

1. Commercial Fisherman Permit Holder - A “commercial fisherman permit holder,” as reference in Port of San Diego Tariff No. 1-G, Item No. 0525, is defined as the named owner/operator of a vessel that meets the requirements of a “Commercial Fishing Vessel” as shown in Port of San Diego Tariff No. 1-G, Item No. 0445 who has been issued a permit to moor at the Tuna Harbor Basin Commercial fishing facility. Owners of multiple vessels will require a separate permit for each vessel.
2. Permission Required - No person shall moor a vessel at the Tuna Harbor Basin commercial fishing facility without permission from the District in the form of (1) a mooring permit, (2) a temporary mooring assignment, (3) an in-transit vessel berth assignment from the Executive Director or his/her authorized representative, or the vessel is taking shelter in accordance with Section 4.09.5. The Executive Director shall have the authority to determine the terms and conditions of any such permits and assignments, including without limitation restrictions as to safety, traffic, congestion, protection of persons, and property and the environment, in addition to the requirements contained herein. Each vessel requires a separate mooring permit,

temporary mooring assignment, or in-transit vessel assignment regardless of owner.

3. Mooring Permits - Mooring permits shall be for a period of time not to exceed twelve (12) months, subject to termination at any time upon thirty (30) days prior written notice. In order to be eligible for a mooring permit the owner/operator of each vessel shall comply with all of the following requirements, prior to April 30th of each calendar year, and submit verification of such requirements to the Port District in such form as is acceptable to the Executive Director:
 - a) The owner/operator of each vessel shall submit a completed permit application form provided by the Port District.
 - b) The owner/operator of each vessel shall provide documentation to establish proof of ownership by submitting either the vessel's California Department of Motor Vehicles (DMV) undocumented vessel certificate number (CF) or United States Coast Guard (USCG) certificate of documentation.
 - c) Each vessel shall have a valid Commercial Boat Registration from the California Department of Fish and Wildlife for the forthcoming year.

- d) Each vessel owner/operator shall have and likewise present a valid commercial fishing license from the California Department of Fish and Wildlife for the forthcoming year.
- e) The owner/operator of each vessel shall submit written documentation to the Port District that the vessel is assessed at the commercial fishing vessel rate by some state and/or county within the United States of America.
- f) The owner/operator shall provide the Port of San Diego proof of commercial fishing activity sufficient to demonstrate annual qualifying amounts from the California Department of Fish and Wildlife using the “Information Request Form for Commercial Landing/CPFV Logbook information.” Annual qualifying amounts are as follows:
 - i) Vessels of thirty (30) feet length overall and below – five thousand dollars (\$5,000.00).
 - ii) All other vessels exceeding thirty (30) feet length overall – ten thousand dollars (\$10,000.00).
 - iii) A vessel exceeding said thirty (30) feet may be made subject to subparagraph i) above and not ii) if said vessel is granted a waiver by the Executive Director or his/her authorized

- iv) representative because of its configuration and capacity to engage in commercial fishing. Such waiver shall be discretionary and shall be supported by reasoning in writing, which shall be filed with the Office of the District Clerk. Denied waivers will be reconsidered with a review of all original documents and any additional evidence by the Executive Director, whose final decision will be binding.
- g) The dockage for a six (6) month period shall be paid in full, in advance, at the time a mooring permit is issued for mooring of the vessel. The dockage shall be based on the length overall of the vessel and measured in accordance with Port of San Diego Tariff No. 1-G, Item No. 0550. Dockage for any subsequent additional period not to exceed six months must also be paid in full in advance of the subsequent period.
- h) All vessels requesting a Tuna Harbor berthing permit are required to provide proof of marine insurance in the following coverage and liability limits: Owner/Operators of commercial fishing vessels shall provide proof of Protection & Indemnity (P&I) insurance with limits of liability not less than \$300,000. Such insurance shall include coverage for bodily injury including death and medical expenses as well as property damage including coverage for removal and wreck

including expenses and costs to dispose of and remove contaminants connected with the vessel. San Diego Unified Port District shall be named an Additional Insured.

- i) All vessels must meet federal requirements as found in 46 CFR Part 28 – Requirements for Commercial Fishing Industry Vessels and USCG’s “Safety Initiatives and Good Marine Practices for Commercial Fishing Industry Vessels.” In addition, all vessels must maintain a valid Commercial Fishing Vessel Safety decal (CFVS) issued within the past two years, including those that are currently exempt.
- j) A review of the prospective applicant’s financial responsibility may be required. A prospective applicant (mooring permittee) is defined as an owner/operator who has not occupied a slip at the Tuna Harbor Basin at any time during the previous 12-month period from the time of application.
- k) District reserves the right to deny a permit to any applicant that violated a previous District permit, had a previous District permit revoked, or otherwise failed to comply with applicable rules at it relates to this ordinance. District staff shall provide a written notice of denial which will include an appeals process.

4. Temporary Mooring Assignment - Upon application, the Executive Director may, in his/her judgment, find that unavoidable accident, unusual occurrences, including but not limited to medical incapacity of the operator, temporary inoperability of the vessel, or other unusual circumstances may relieve the boat owner/operator from the active fishing vessel proof requirements. In such cases, a temporary mooring assignment may be issued on a month-to-month basis during the continuation of such unusual circumstances, for a total period not to exceed six (6) months. All requirements for a mooring permit set forth in Section 4.09.02 that are not explicitly waived shall continue to apply to temporary assignments.
5. In-transit Vessel Berth Assignments – The owner/operator of an in-transit commercial fishing vessel may apply for an in-transit vessel berth assignment and may be authorized to moor at the facility for a period of time not to exceed twenty (20) days within any continuous thirty (30) daytime span. At the discretion of the Executive Director this time limitation may be extended upon showing a bona fide need.
 - a) An in-transit commercial fishing vessel is defined as a commercial fishing vessel, which is not permanently home-ported in San Diego Bay. An in-transit berth assignment may be authorized subject to the following requirements

- i) The owner/operator of each in-transit commercial fishing vessel shall submit a completed berth reservation form provided by the Port District.
- ii) The owner/operator of each in-transit commercial fishing vessel shall pay, in advance, the dockage for in-transit commercial fishing vessels as provided in Port of San Diego Tariff No. 1-G, Item No. 0570(B).
- iii) The owner/operator of each in-transit commercial fishing vessel shall comply with requirements in Section 4.09.03 subparts b, c, d, e, h and i as referenced above.
- iv) All persons requesting an in-transit vessel berth assignment are required to provide proof of marine insurance in the following coverage and liability limits: Owner/Operators of commercial fishing vessels shall provide proof of Protection & Indemnity insurance with limits of liability not less than \$300,000. Such insurance shall include coverage for bodily injury including death and medical expenses as well as property damage including coverage for removal and wreck including expenses and costs to dispose of and remove

contaminants connected with the vessel. San Diego Unified Port district shall be named an Additional Insured.

- v) All in-transit vessels berthed at Fish Harbor Pier must have a crew member aboard the vessel 24 hours a day.

6. Shelter - A vessel captain or operator using a facility of the Port of San Diego, without an application, or having taken shelter at a facility due to extreme conditions of weather or distress, will do so at his/her own risk and will immediately notify Port District of the situation. At the discretion of the Executive Director, the vessel its owner(s), agent(s), and charterer(s) may be held responsible for any and all charges, damages, and losses of any nature whatsoever that result from taking and using such facility, upon alleviation of extreme weather conditions or distress conditions, vessel shall immediately vacate Port of San Diego facilities. If vessel repair is necessary, prompt, and immediate repair of vessel shall occur and written proof of due diligence concerning the repair of vessel, such as job orders and purchase orders shall be submitted to the Port's Maritime staff.
7. Rules for Overnight Commercial Fishing Activities or Preparations – No owner/operator of a vessel berthed at the Tuna Harbor Basin shall allow any person to occupy the vessel as a place of residence or overnight accommodation, nor shall any person occupy such a vessel as a place of residence or overnight accommodation except as allowed below:

- a) If authorized by the Executive Director or his/her designated representative, owner/operators and crew members, who are actively engaged in commercial fishing activities or preparations, may stay on their vessel overnight not to exceed 7 nights in any 10-day period. No others are allowed overnight stays on such vessels. At the discretion of the Executive Director this time limitation may be extended upon the showing of a bona fide need.
 - b) If authorized by the Executive Director, or his/her designated representative, owner/operators and crewmembers of in-transit commercial fishing vessels may stay onboard overnight while the vessel remains an in-transit commercial fishing vessel. No others are allowed overnight stays on such vessels.
 - c) Requests for overnight stays can be initiated by contacting the Port's Maritime Office at 619-686-6345 (24/7 contact number).
- 8. Environmental – All permittees must comply with the Port Code 10.5 (Prohibitions) and 10.6 (Best Management practices)
 - 9. Sanitation Facilities - All vessels moored at Tuna Harbor are required to have adequate sanitation facilities on board, at all times. Adequate sanitation facilities are considered to be fully operational Type I, II, or III

Coast Guard-approved marine sanitation device or portable toilet that prevents direct discharge of human waste into the harbor.

10. **Illegal Discharge** – No person shall discharge, or allow to be discharged any oil, sewage, grey water, or other materials into the waters or upon the lands of the Port District and shall obey, and comply with all applicable laws, rules and regulations adopted by federal, state, District or other local government bodies, including without limitation environment laws.
11. **Dock Modification** – No modifications or permanent attachments shall be made to the permittee's slip and adjacent areas except by the District or its contractors.
12. **Authorization Prior to Slip Move** – Permittees are assigned a specific dock slip location. Usage of unassigned dock slip location is not permitted without approval from the District's Maritime staff. Permittees with multiple slips are permitted to shift Vessels within their assigned slips without prior authorization, as long as the slip being utilized is adequate for the size of vessel.
13. **Additional Vessels/Floats** – Permittees are not authorized to attach or store skiffs, floats, or other vessels to the permitted vessel, floating docks, or piers except for the purpose of active vessel operations. No long-term (longer than 72 hours) attachment or storage will be permitted.

14. Sale of Vessel – For Sale signs are allowed on permitted vessels within Tuna Harbor Basin, but sign dimensions should not exceed 24" X 36", no more than four (4) signs allowed per vessel, and all signs may only be affixed to the vessel.
15. Transfer of Ownership – District's Maritime Staff must be notified prior to any vessel transfer of ownership. Slip permits are not transferrable. New owners will be required to submit all applicable documentation to Maritime Staff in order to obtain a slip at Tuna Harbor.
16. Storage – No person shall store, or cause to be stored, any supplies, materials, accessories, motors, debris, refuse, or garbage on any approach ramp, head walk, or finger float within Tuna Harbor Basin, without prior authorization from the District's Maritime staff. The floating docks are intended for vessel berthing and transferring cargo, equipment, and supplies, not for long-term storage. The District will allow up to 48 hours to transfer gear/equipment to and from the vessel. Additionally, the District will permit the usage of one dock box per vessel no greater than 35 Cubic feet.
17. Parking – Vehicles utilizing Tuna Harbor's commercial fishing parking lot must have a valid parking decal from the District. No more than one parking permit decal per vessel; however, the Executive Director or their designee is authorized to issue additional parking permits based on space availability and demand at the rate outlined in the District's Tariff.

18. Long Term Parking – Permittees parking for more than seven days must notify and receive authorization from the District's Maritime staff.
19. Dock Gates – Gates and doors to all floating docks within Tuna Harbor Basin must always remain locked. Wiring open or impairing gates and locks is prohibited. Additionally, permittees are not authorized to share gate access codes.
20. Authorization for Common Use Areas – All commercial fishing vessels must receive prior authorization from the District's Maritime staff for use of Tuna Harbor's common use areas. Common use areas include Fish Harbor Pier inner G St. Mole Pier slip, and Dock 1 loading dock slip.

Note: Fish Harbor Pier is a public pier primarily used to berth in-transit commercial fishing and to allow permitted vessels additional dock space to conduct net mending, fish offloading, and other activities related to servicing commercial fishing vessels.
21. Delinquencies – All charges for services rendered or for the use of any terminal facility are due and payable as they are incurred. The executive Director may, at his/her discretion, require that charges, which are assessed against the vessel, its owners, operators, or agents, be paid before the vessel leaves its berth. The Executive Director may also require that charges accrued against cargo be paid before removal of such cargo from the terminal. Any firm, corporation, or person that fails to pay bills covering

dockage or wharfage charges that remain due and unpaid for a period of forty-five (45) days after the first day of any renewal quarter shall be considered delinquent and must thereafter:

- a) Pay all charges, in cash, in advance of handing any ship or cargo under any circumstance at the Port of San Diego; or
- b) Place a deposit with the Executive Director an amount sufficient to guarantee the payment, upon presentation of all bills incurred by, for or on behalf of such person, within a one-month period.

- 22. Vehicle Access, Fish Harbor Pier – No Person shall drive a vehicle on Fish Harbor Pier without prior authorization from the District's Maritime staff. Failure to comply may result in a citation from the District's Harbor Police Department.
- 23. Vehicle Access, Tuna Harbor Mole Pier – Vehicle access on Tuna Harbor Mole Pier is authorized only for vehicles actively working against a permitted vessel. Unattended vehicles are not authorized, and all vehicles must stay within the solid red line to maintain a fire lane for emergency access. Failure to comply may result in a citation from the District's Harbor Police Department.
- 24. Live Bait or Catch Receivers – Any live bait and/or catch receivers will be subject to all rules and regulations pertaining to vessels and must stay

within the vessel's assigned slip area. Receivers must be labeled with the vessel name in which they service.

25. Loading of Passengers – Except for vessels operating under the terms of a special permit issued by the District, no person shall load or allow the loading of passengers for hire on any vessel, commercial or otherwise, within the Tuna Harbor Basin.

26. Vessel Maintenance – Unified Port District Code Sections, 10.05 and 10.06 are applicable to any maintenance/repairs identified in this section.

Note: Net mending and removable fishing gear repair not applicable to this section.

- a) Vessel maintenance work within the Harbor shall be limited to that ordinarily required to keep the vessel seaworthy and in good condition. Minor repairs to and routine maintenance of a vessel may be made or accomplished in the assigned berthing or mooring space, provided all work is done within the confines of the vessel and not carried on in any manner whatsoever upon the floats or piers, into the water, or onto neighboring vessels.
- b) Spray painting is strictly prohibited, except for airbrush painting required for boat numbering and names.
- c) Major repairs which include, but are not limited to, construction, repair, or replacement of structural members or portions of the vessel

are prohibited, except by advance request and written authorization will be given within a 24-hour period from the District's Maritime staff. The criteria used for granting such a request shall be largely based on the ability of all materials used by or produce from the project to be completely contained in or on the vessel, and that a nuisance to neighboring vessels will not occur.

- d) Use of welding, burning torch or other open flame apparatus requires prior written permission from the District's Maritime staff.
 - e) In no event shall maintenance work performed to a vessel result in damage to District facilities, including paint marks, drill holes, burn marks, and spilled fuel, oil, paint or solvents. The permittee shall be financially liable for the repair or restoration of any such damage, even if it is caused by relatives, employees, or contract workers of the owner. District-provided trash bin/dumpsters shall not be used for any excessive waste created from additional maintenance/repairs done to vessels. Vessel owners are responsible for disposing excessive waste from maintenance/repairs off-site.
27. Displays – Non-navigational flags or banners are prohibited from being displayed on vessels while docked at a slip within Tuna Harbor Basin.
28. Inoperable Vessels – Vessels berthed, moored, or anchored in Tuna Harbor must be operable, maintained in a seaworthy condition, and be a design

suitable for operation on the open waters of San Diego Bay in the typical range of sea conditions. If the District has cause to question the operability of a vessel, a District representative may request a demonstration of the vessel's operability. Thirty days written notice shall be given to the vessel's owner for such a request. In cases where a vessel is found to be inoperable, the owner shall have sixty days to complete repairs to make vessel operable. If after sixty days the boat is still inoperable, the permit will be revoked, and the vessel must be removed within ten days. This section is not intended to apply to any brief period of repair common to most vessels. The District's Maritime staff may repeat the request to test operability as needed. The Executive Director or his/her designee may grant additional time for major maintenance items on a case-by-case basis. Additional time will be taken into consideration for regulatory requirements or permittees making vessel improvements through a government program or grant process. It is not the intention of this exemption to allow for long-term storage of unused maritime hardware.

29. Violations – The San Diego Unified Port District may institute legal action in any court of competent jurisdiction against any person who violates any provisions as set forth in the Tariff published by the San Diego Unified Port District (Refer to Tariff No. 1-G, Item No. 0300), The Executive Director is authorized to remove any vessel from the assigned mooring area to the

nearest vessel impound or other place, within the Port of San Diego, when any vessel is moored in violation of any applicable law or regulation, including without limitation this Section 4.09 and any approved berth reservation issued pursuant thereto. In the event of removal, the registered owner shall be informed promptly of the impound location and be provided an opportunity to remove vessel.

30. Notice of Violations – Any permit holder, crew member, contractor or associate of a vessel found to be out of compliance with any of the provisions found in this ordinance shall be notified of any such violation by mail and by a Notice of Violation sticker with detailed information of such violation being placed on the vessel and/or equipment by the District's Maritime staff.
31. Appeals Process – In the event the Port District issues Notice of Intent to Evict a permitted vessel or denies a permit based on 4.09.03.k, the permit holder or denied applicant shall be given the right to file a written appeal to the Executive Director which shall be delivered or mailed to the District Clerk. The permit holder shall have ten (10) calendar days from the date of the Notice of Intent to Evict or denial of permit based on 4.09.3.K to file the appeal. The decision of the Executive Director shall be final.

(Enacted March 6, 1984 – Ordinance No. 1064)

(Amended December 19, 1995 – Ordinance No. 1785)

(Amended December 11, 2018 – Ordinance No. 2932)

(Amended December 14, 2021 – Ordinance No. 3032)

SECTION NO. 4.10 – TERMINAL OPERATOR DEFINED

A Terminal Operator shall be any person offering to perform for the general public the following services in connection with a common carrier by water in interstate or foreign commerce upon facilities of District facilities:

- (a) The handling, storing and/or delivering such merchandise and cargoes;
- (b) Such additional accessorial services as may be required in connection with such merchandise and cargoes, including but not limited to the loading, unloading, marking, labeling, and transferring.

(Enacted May 10, 1966 – Ordinance No. 227)

(Amended October 8, 2013 – Ordinance No. 2741)

SECTION NO. 4.13 – TERMINAL OPERATOR AGREEMENTS REQUIRED

- (a) It shall be unlawful for any person to perform terminal operator services upon facilities of the District, as such terminal operator services are herein defined, without first entering into a Terminal Operator Agreement with the District.
- (b) Terminal Operator Agreements, as required by subsection (a), shall contain terms including, but not limited to, the Terminal Operator indemnifying and holding harmless the District against liability arising out of Terminal Operator's performance of the Terminal Operator Agreement; Terminal Operator maintaining adequate insurance; and other terms and conditions as deemed appropriate by the District.
- (c) The Executive Director has the authority to execute Terminal Operator Agreements in accordance with this Section.

(Enacted May 10, 1966 – Ordinance No. 227)

(Amended October 8, 2013 – Ordinance No. 2741)

SECTION NO. 4.14 – REGULATION OF IN-WATER HULL CLEANING**(a) Purpose**

California law requires the District to protect, preserve and enhance the quality of water in San Diego Bay (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix I) and prohibits the discharge of waste to waters of the state in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance (California Water Code section 13050). Pursuant to Clean Water Act Section 303(d), portions of San Diego Bay have been identified as impaired due to high concentrations of dissolved copper in the water column, which resulted in a requirement imposed by the San Diego Regional Water Quality Control Board to reduce copper loading through a Total Maximum Daily Load (TMDL). The in-water hull cleaning of vessels has been identified as a source contributing to copper loading. Therefore, the District is adopting this Section to help implement its statutory responsibilities by requiring that in-water hull cleaning in San Diego Bay as a business be conducted only by persons holding a valid permit issued by the District.

(b) Definitions

For purposes of this Section, certain words and phrases not otherwise defined in District Code Section 0.03 shall be defined as follows, unless the context requires a different meaning:

1. "In-Water Hull Cleaning" – the cleaning of recreational or commercial vessel hulls while the vessel is in the water. This includes cleaning, by hand or mechanical means, the underwater portions of the hull up to the waterline. This does not include underwater dive services used for other activities, including but not limited to, regular servicing of zinc anodes, underwater maintenance and repair of drive shafts, through-hull components and other maintenance-related efforts.
2. "In-Water Hull Cleaning Permit" – a permit issued by the District for In-Water Hull Cleaning as a Business. Permits may be issued to an individual or a business on behalf of numerous individuals. The permittee shall be responsible for the activities of all Persons performing work under the Permit.
3. "Best Management Practices" or "BMPs" – schedules of activities, good housekeeping practices, pollution prevention and educational practices, maintenance procedures, tools and other management practices used to prevent or reduce the discharge of pollutants

directly to receiving waters to the maximum extent practicable. BMPs may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this Section.

4. "Business" – any public or private activity, facility, or person involved in, engaged in, or that provides In-Water Hull Cleaning services for compensation. These activities do not include industrial activities, nor do they include any Federal, State, Municipal, or other government agency activities.
5. "Facility" – marinas, mooring companies, yacht clubs and any other area in which In-Water Hull Cleaning is conducted.

(c) In-Water Hull Cleaning Permits

1. No Business shall perform In-Water Hull Cleaning without first having secured an In-Water Hull Cleaning Permit from the District.
2. All Persons performing In-Water Hull Cleaning as part of a Business shall possess, maintain, and show proof that they are operating pursuant to a valid In-Water Hull Cleaning Permit, upon request.
3. Each Facility shall require all Persons it admits to its leasehold to perform in-Water Hull Cleaning as a Business to show proof that

they are operating pursuant to a valid In-Water Hull Cleaning Permit before any In-Water Hull Cleaning is conducted.

4. Each Facility shall maintain a copy of a valid In-Water Hull Cleaning Permit Persons it admits to its leasehold to perform In-Water Hull Cleaning as a Business. Copies shall be kept on the leasehold for no less than ninety (90) days after the expiration of the In-Water Hull Cleaning Permit. District shall have the right to inspect the permit copies at any reasonable time, upon request.
5. Each Facility that becomes aware that any In-Water Hull Cleaning is being or has been conducted on its leasehold without a permit required by this Section shall notify the District within one business day of discovery.
6. Each Business with an In-Water Hull Cleaning Permit shall comply with each and every provision of the In-Water Hull Cleaning Permit. Failure to comply may result in the suspension or revocation of the Business's In-Water Hull Cleaning Permit or any penalty(ies) enumerated in Subsection (f) of this Section.

(d) Use of Best Management Practices for All Persons

1. No Person shall perform In-Water Hull Cleaning without complying with Best Management Practices generally recognized by the industry as being effective and environmentally sound.

2. No Person shall perform In-Water Hull Cleaning that results in visible paint plume or cloud.

(e) Federal or State Preemption

The provisions of this Section do not apply where Federal or State law Regulates In-Water Hull Cleaning if the Federal or State law preempts local regulation or if the Federal or State law is more restrictive.

(f) Penalties for Violation of Section 4.14

1. A violation of this Section shall be punished in accordance with District Code Section 0.11.
2. Violations of this Section also may be grounds for suspension, revocation or modification of any District permit, license or approval.
3. Violations of this Section may be grounds for the refusal to issue or renew an In-Water Hull Cleaning Permit.
4. Penalties and remedies under this Section may be cumulative and in addition to other administrative, civil or criminal remedies. Nothing in this Section shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

(g) Right of Appeal

1. If the District suspends, revokes, modifies or refuses to issue an In-Water Hull Cleaning Permit, the permittee may appeal, in writing, to

the Executive Director within Ten (10) calendar days of the date of the action taken by the District.

2. The written appeal shall state whether a hearing is requested and shall contain all reasons why the permittee or applicant for a permit believes the action of the District to be improper.
3. If no written appeal is filed, or if the appeal is untimely or fails to state the reasons why the permittee or applicant for a permit believes the action of the District to be improper, the right to a hearing is waived and the decision of the District is final.
4. If a written appeal is timely and completely filed and a hearing is requested, the District shall appoint an impartial hearing officer within Thirty (30) days and establish a date, time and place for the hearing. This time may be extended based on good cause or the agreement of the parties. The decision of the hearing officer is final.

(Enacted July 11, 2011 – Ordinance No. 2645)

(Amended August 14, 2012 – Ordinance No. 2684)

SECTION NO. 4.30 – SOUTH SAN DIEGO BAY ANCHORING, MOORING AND AQUATIC ACTIVITIES REGULATED**(a) Purpose**

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix I, Sections 55 and 56) requires the Board of Port Commissioners to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this Section of the San Diego Unified Port District Code is to implement that responsibility within South San Diego Bay. South San Diego Bay is naturally shallow with depths ranging from One (1) to Six (6) Feet at low tide, except in marked channels. Problems associated with water quality and flotsam are more prevalent in the South Bay owing to the lack of tidal flushing in this area. Numerous sunken vessels, submerged obstructions and dilapidated watercraft have been abandoned in the area, complicating navigation.

Duly published regulations and restrictions promulgated by competent State or Federal authority shall be paramount in the event of conflict with provisions of this Code.

(b) Definitions

1. "South San Diego Bay" – The part of San Diego Bay lying southward of a line extending in a west southwesterly direction from the southwesterly corner of the Sweetwater Wharfing Latitude 32° 38' 52" N, Longitude 117 07' W, to a point on the southerly shore of Crown Cove at Latitude 32 38' 10" N, Longitude 117° 08'20" w.
2. "Coronado Cays Channel" – That channel marked by buoys and day markers lying east of Coronado Cays; including approaches to floats and berthing facilities in the Coronado Cays complex.
3. "Chula Vista Harbor Channel" – That channel marked by day markers leading from the Sweetwater Channel turning basin in a southerly direction toward the Chula Vista Harbor entrance situated at Latitude 32° 37' 23" N, Longitude 117 06' 15"W.
4. "Chula Vista Small Craft Harbor" – That deepened and protected portion of South San Diego Bay lying eastward of Longitude 117° 06' 15" W.
5. "Chula Vista Wildlife Preserve" – That man-made peninsula of approximately Eighty (80) acres in surface lying southerly of the Chula Vista Harbor, and westerly of San Diego Gas & Electric power plant at Latitude 32° 37' N.

(c) Regulations

1. It shall be unlawful to anchor, moor, make fast to the bottom, strand, or ground any vessel or structure or to be in control or possession of or to operate any vessel or structure which is anchored, moored, made fast to the bottom, stranded or grounded within South San Diego Bay as defined in Sec. 4.30(b)1 of this Code.
2. Watercraft engaged in public works projects, patrol, derelict removal, geological or environmental survey, or other work permitted by competent local, State or Federal authority shall be exempt from this restriction during the course of such work. This section shall not apply to vessels of less than Eighteen (18) Inches loaded draft engaged in fishing during daylight hours.
3. It shall be unlawful for any vessel to be operated at a speed in excess of Five (5) Miles Per Hour in South San Diego Bay as defined in Sec. 4.30(b)1 of this Code, except while transiting the Chula Vista Harbor Channel seaward of daymarks 11 and 12. Vessels must maintain a reasonable and prudent speed pursuant to Section 4.04 of this Code.

(d) Penalty

1. Any person who violates any provision of this Section, shall be guilty of a misdemeanor.
2. Any vessel anchored in violation of any provision of this Section shall be subject to removal and storage by any Harbor Police Officer pursuant to Section 8.25(a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of any vessel removed and stored pursuant to this Section.

(Enacted February 10, 1987 – Ordinance No. 1200)

(Amended June 18, 1991 – Ordinance No. 1435)

(Amended March 9, 2004 – Ordinance No. 2284)

SECTION NO. 4.35 – CENTRAL SAN DIEGO BAY ANCHORING, MOORING AND AQUATIC ACTIVITIES REGULATED**(a) Purpose**

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix I, Sections 55 and 56) requires the Board of Port Commissioners to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this section of the San Diego Unified Port District Code is to implement that responsibility within Central San Diego Bay.

Duly published regulations and restrictions promulgated by competent State or Federal authority shall be paramount in the event of conflict with provisions of this Code.

(b) Definitions

1. “Central San Diego Bay” – That part of San Diego Bay lying northerly of South San Diego Bay, as defined in this Code, and southerly of a line drawn westerly from the South Embarcadero Marina Park fishing pier to the easterly most point of North Island Naval Station in Latitude 32° 42' 10" N.

The majority of Central San Diego Bay has been deepened by dredging to a depth of Ten (10) Feet or more at low tide.

2. “Glorietta Bay” – That portion of Central San Diego Bay lying westward of Longitude 117° 10' W.
3. “Glorietta Bay Channel” – That channel connecting the northwesterly extreme of Glorietta Bay with the Main Ship Channel at Coronado Bridge Piling No. 15.
4. “Bay Bridge Roadstead” – That part of Central San Diego Bay bounded on the south by a line parallel to and 250 Feet north of the Coronado Bridge, on the northeast by the Main Ship Channel, on the west by the shoreline of Coronado, and on the north by Latitude 32° 41' 30" N.
5. “Anchorage A-5” – The Glorietta Bay Anchorage as defined and regulated by Section 4.38 of this Code.
6. “Anchorage A-8” – The Sweetwater Anchorage as defined and regulated by Section 4.36 of this Code.

(c) Regulations

1. Central San Diego Bay, Anchoring Prohibited Central San Diego Bay, south of the Glorietta Bay Channel, with the exception of military security and restricted areas, marked with channels and designated anchorages, is reserved for aquatic sports activities and regattas.

Anchoring or mooring in Central San Diego Bay, except in anchorage areas designated in Section 4.35(b)4, and 4.35(b)5 of this Code, is prohibited and unlawful.

2. Authorization to anchor in Central San Diego Bay outside designated anchorage areas for limited periods of not more than Seventy-Two (72) Hours may be obtained by application to the Office of the Chief of San Diego Harbor Police.
3. It shall be unlawful for any vessel under way in Glorietta Bay, and Bay Bridge Mooring Area and Central San Diego Bay Anchorage, as defined in this Code, to be operated at a speed in excess of Five (5) Miles Per Hour.
4. It shall be unlawful to anchor, moor, make fast to the bottom, strand, or ground any vessel or structure or to be in control or possession of or to operate any vessel or structure which is anchored, moored, made fast to the bottom, stranded or grounded within Central San Diego Bay, except anchoring and mooring as permitted in the anchorage and moorage areas designated in Sections 4.35(b)4, 4.35(b)5 and 4.35(b)6 of this Code.
5. Watercraft engaged in public works projects, patrol, derelict removal, geological or environmental survey, or other work permitted by competent local, State or Federal authority shall be

exempt from this restriction during the course of such work. This Section shall not apply to vessels engaged in fishing during daylight hours.

(d) Penalty

1. Any person who violates any provision of this Section shall be guilty of a misdemeanor.
2. Any vessel anchored in violation of any provision of this Section shall be subject to removal and storage by any Harbor Police Officer pursuant to Section 8.25(a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of any vessel removed and stored pursuant to this Section.

(Enacted February 10, 1987 – Ordinance No. 1201)

(Amended June 18, 1991 – Ordinance No. 1436)

(Amended March 9, 2004 – Ordinance No. 2285)

(Amended September 2, 2008 – Ordinance No. 2522)

SECTION NO. 4.36 – REGULATION OF VESSELS – A-8 ANCHORAGE**(a) Purpose**

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix 1) requires the Board of Port Commissioner to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this Section of the San Diego Unified Port District Code is to implement that responsibility within the A-8 Anchorage.

(b) Definitions

Certain words and phrases used herein are defined as follows, unless the context requires a different meaning:

1. “A-8 Anchorage” – In Center San Diego Bay, the Sweetwater Anchorage, the water enclosed by a line beginning at latitude 32°39'12.2"N., longitude 117°07'30.1"W.; thence southerly to latitude 32°38'45.2' N., longitude 117°07'45.1" W.; thence northerly to the point of beginning.
2. “Anchoring” – Attachment or making fast of a Vessel or structure to the bottom of the shore of San Diego Bay using an anchor and proper ground tackle or by any other means.

3. “Vessel” – A watercraft designed to float upon the surface of a body of water for the purpose of transporting persons or property.

(c) A-8 Anchorage, Anchoring Regulated

1. Anchoring or mooring in the A-8 Anchorage, with the exception of military security and restricted areas, is prohibited during the environmental restoration and clean-up of the anchorage, subject to available funding, for the period from October 1, 2008, at 5:01 PM, through July 1, 2011.
2. After completion of environmental restoration of the A-8 Anchorage, the anchorage will be reserved for aquatic sports activities, regattas, other small craft temporary usage subject to permit, or other uses as specified by amendment of this section by the Board of Port Commissioners.

(d) Uses Prohibited

1. No business or commercial enterprise shall be conducted at the A-8 Anchorage.
2. No barges or floating docks shall be allowed to moor or anchor at the A-8 Anchorage.
3. No Vessel more than sixty-five (65) feet in length shall be allowed to moor or anchor at the A-8 Anchorage.

(e) Abandonment of Vessel

Pursuant to Harbors and Navigation Code Section 522, et seq., no Vessel shall be left in the A-8 Anchorage with the intent to abandon such vessel, and if any vessel is abandoned, in addition to other legal remedies available to it, the District has the right to impound, tow, store, and/or demolish the Vessel at the expense of the owner.

(f) Invalidity

If any section, subsection, sentence, clause, phrase or portion of this Section 4.36 is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Enacted August 22, 2000 – Ordinance No. 2107)

(Amended March 9, 2004 – Ordinance No. 2286)

(Amended September 5, 2006 – Ordinance No. 2413)

(Amended September 2, 2008 – Ordinance No. 2522)

SECTION NO. 4.37 – REGULATION OF CHARTER VESSEL OPERATIONS IN SAN DIEGO BAY AND DISTRICT TIDELANDS

(a) Purpose.

1. California law requires the San Diego Unified Port District (District) to control, regulate, and manage the harbor of San Diego upon the tidelands and the waters of San Diego Bay for the promotion of commerce, navigation, fisheries, and recreation thereon (San Diego Unified Port District Act, *Harbors and Navigation Code*, Appendix 1, *et seq.*). This Section sets forth the regulations and requirements for Charter Vessel Operations in San Diego Bay and District tidelands. Each Charter Vessel Operation, whether operating from a Marina, Sportfishing Landing, or any other location, shall comply with the requirements set forth in this Section 4.37, as well as all applicable United States Coast Guard rules and regulations, and all other applicable local, state and federal laws and regulations for the use of District Facilities, including any health orders issued by the United States, the State of California, or San Diego County. Furthermore, each Charter Vessel decal.
2. Operation operating from a District tenant Marina or Sportfishing Landing shall pay for and display a valid Charter Vessel Operation Decal signifying that a District tenant Marina or Sportfishing Landing has verified the Charter Vessel Operation's compliance with the

requirements set forth in this Section 4.37. Charter Vessel Operations are prohibited from using District Facilities other than District tenant Marinas or Sportfishing Landings, with tenant permission and in compliance with each tenant's lease where charters may operate, and this Section 4.37, for docking, embarking or debarking of Passengers, or to park any vehicle or trailer carrying a Charter Vessel. To the extent authority is delegated to the staff of the District and to others to implement this Section, that authority shall be exercised so as to achieve these purposes.

3. Charter Vessel Operation Decal Fees shall be limited to the District's reasonable regulatory costs for printing decals. As such, the Charter Vessel Operation Decal Fees are exempt from the definition of a "tax" under California Constitution Article XIII C, Section 1, Subdivision (e)(3).
4. Unless such dates are deferred by the Executive Director, this Section shall become effective, and enforcement thereof shall commence on July 1, 2021, except that Subsection (e)3, Charter Vessel Operation Decal Requirements for Charter Vessel Operation operating from District tenant Marinas and Sportfishing Landings,

shall become effective, and enforcement thereof shall commence on September 1, 2021.

(b) Definitions.

1. “Bareboat Charter” means an arrangement for the chartering or hiring of a vessel whereby no crew or provisions are included as a part of the charter; rather, the vessel or boat owner gives complete possession, command and navigation of the vessel to a Charterer and the Charterer is solely responsible for providing qualified crew and provisions for the duration of the charter. Bareboat Charters do not have Passenger(s) for hire.
2. “Boating Club” means: (1) an organization that is existing under the laws of California or another state that is in good standing with the Secretary of State of the state under which it is organized and existing; (2) that has members who pay an initiation fee to join and thereafter monthly membership fees; (3) that allows members to use multiple Seaworthy vessels in its fleet; (4) that allows use of vessels in its fleet by members exclusively for recreational use (including instruction provided in the cost of the membership) and prohibits commercial use of vessels in its fleet; (5) that requires current vessel liability insurance for the vessels in its fleet in the minimum amount of \$300,000, with a pollution endorsement; (6) that is permitted to operate pursuant to a current sublease or wharfage

agreement that complies with the master lease agreement for each Marina or Sportfishing landing where the organization operates, that is on file with the District; and (7) that requires verification that its members can safely operate the vessels that they are permitted to use. For purposes of this subsection, a Boating Club meeting the above requirements that operates out of a yacht club with a master lease with the District that allows certain non-members such as school-age children participating in high school sailing or other similar instruction or a non-member using a Boating Club vessel for instruction, community outreach, or non-professional or amateur competition shall be considered as members of a “Boating Club”.

3. “Charter Vessel” means a boat, vessel or any type of water craft which is less than one hundred (100) gross tons and carrying one hundred and fifty (150) passengers or fewer and includes but is not limited to, fishing charter, Bareboat Charter, sailing charter, Six Pac Charter, Small Passenger Vessel charter, Uninspected Passenger Vessel, personal watercraft, jet ski, kayak, canoe or paddleboard that Operates on San Diego Bay or on District Facilities, for the purpose of taking passengers on the water, for business or pleasure. “Charter Vessel Operation” means the leasing or hiring of one or more Charter Vessel(s) for any use on San Diego Bay, District tidelands or of District Facilities, including the embarking and debarking of

Passengers for any Consideration, or an agreement where the Charterer has use of a Charter Vessel for any Consideration, or for a period of time, shall be deemed under this chapter to be the owner and takes on legal obligations for the Passengers carried, including Passengers for Hire.

4. “Charter Vessel Operator” means a Charter Vessel owner, operator, or the agent of either, with responsibility for the operation of a Charter Vessel.
5. “Charter Vessel Operation Decal” means a decal, or pair of decals (port and starboard) if specified by the District, provided by the District to District tenant Marinas and Sportfishing Landings to be issued to Charter Vessel Operations that begin or end their Charter Vessel Operation at the District tenant Marina or Sportfishing Landing, and for which such District tenant Marina or Sportfishing Landing has verified the Charter Vessel Operation’s compliance with the requirements of this Section 4.37 and with the tenant’s lease.
6. “Charterer” means a person or organization that charts a vessel.
7. “Consent to Boarding” means Charter Vessel Operator’s agreement to allow boarding of a Charter Vessel Operation by the District, the District’s Harbor Police Department, or United States Coast Guard, to determine the Charter Vessel Operator’s compliance with the provisions of this Section 4.37 and all applicable law

8. “Consideration” means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.
9. “District” means the San Diego Unified Port District, or any department thereof.
10. “District Clerk” means the Clerk of the San Diego Unified Port District or his or her designee.
11. “District Facilities” means District tidelands which include, but are not limited to, docks, piers, boat launch ramps, anchorages, landings, and embarkation and disembarkation locations for vessels.
12. “Executive Director” means the Executive Director of the San Diego Unified Port District or his or her designee. “Marina” means any business that allows any Charter Vessel Operation on land or submerged land that: (i) has docks or slips; or (ii) is otherwise used as a vessel docking facility for berthing privately-owned recreational pleasure vessels or, as the context may require.
13. “Passenger” means an individual carried on a vessel, except:
 - a) the owner or an individual representative of the owner, or in the case of a vessel under Charter, an individual Charterer

or individual representative of the Charterer; if more than one person represents an owner or Charter, all shall be counted as Passengers except the first;

- b) the master, captain or skipper; or
- c) a member of the crew engaged in the business of the vessel who has not provided Consideration for carriage and who is paid for on-board services.

14. “Passenger(s) for Hire” means Passenger(s) for whom Consideration is provided as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, Charterer, Charter Vessel Operator, agent, or any other person having an interest in the vessel.

- a) “Recreational Vessel” means a vessel: operated for pleasure; or leased, rented, or chartered to another for pleasure.

15. “Seaworthy” means a vessel properly equipped, sufficiently constructed, and watertight in order to withstand stress of the wind, waves, and other environmental conditions that the vessel might reasonably be expected to encounter; and, a vessel in good condition which is not likely to sink or become a nuisance or a menace to navigation, and which is capable of getting underway and navigating safely using its own propulsion system. Vessels such as kayaks, canoe, or paddleboard must be Seaworthy as defined in this

subsection, except the requirement to get under way using its own propulsion system.

16. “Small Passenger Vessel” means a vessel required to be annually inspected by the United States Coast Guard of less than one hundred (100) gross tons as measured pursuant to the provisions of 46 U.S.C. Section 14502, or an alternate tonnage measured pursuant to 46 U.S.C. Section 14302 as prescribed under 46 U.S.C. Section 14104 that is:
- a) a vessel for hire that carries more than six (6) Passengers, including at least one Passenger for Hire; or
 - b) chartered with crew provided or specified by the owner or the owner’s representative and carrying more than six (6) Passengers; or
 - c) chartered with no crew provided or specified by the owner’s representative and carrying more than twelve (12) Passengers; or
 - d) a submersible or wing-in-ground craft, regardless of tonnage, carrying at least one (1) Passenger for Hire; or
 - e) a ferry carrying more than six (6) Passengers.
17. “Sportfishing Landing” means a San Diego Unified Port District leasehold dedicated exclusively for discharging and taking on Passengers for Hire on Charter Vessels.

18. “Uninspected Passenger Vessel” means an uninspected vessel
- a) of at least one hundred (100) gross tons as measured pursuant to the provisions of 46 U.S.C. Section 14502, or an alternate tonnage measured pursuant to the provisions of 46 U.S.C. Section 14302, as prescribed by the Secretary under 46 U.S.C. Section 14104,
 - 1. carrying not more than twelve (12) Passengers, including at least one (1) Passenger for Hire; or
 - 2. that is chartered with the crew provided or specified by the owner or the owner’s representative and carrying not more than twelve (12) Passengers; and
 - b) of less than one hundred (100) gross tons as measured pursuant to the provisions of 46 U.S.C. Section 14502, or an alternate tonnage measured pursuant to the provisions of 46 U.S.C. Section 14302, as prescribed by the Secretary under 46 U.S.C. Section 14104,
 - 1. carrying not more than six (6) Passengers, including at least one (1) Passenger for Hire; or
 - 2. that is chartered with the crew provided or specified by the owner or the owner’s representative and carrying not more than six (6) Passengers.

(c) Noncompliant Charter Vessel Operations Prohibited.

No person shall conduct a Charter Vessel Operation in San Diego Bay or District Facilities without being in compliance with this Section 4.37.

However, this Section 4.37 shall not apply to: Any person who operates a Charter Vessel from a federal facility such as a United States Naval base or United States Coast Guard facility; or A common carrier operating with authority granted by the California Public Utilities Commission or a ferry; or

1. A Charter Vessel operating from one of the District's cruise ship terminals or other District-identified passenger water transportation center located on District Facilities; or
2. Any person who is a current member of a Boating Club who is operating a vessel that is part of a Boating Club's fleet of vessels. Those operating a vessel that is part of a Boating Club's fleet must, while operating such vessel, maintain aboard the vessel a membership card or other written confirmation that the operator is a current member of the Boating Club. Members of a Boating Club are not permitted to receive cash or other monetary consideration from any Passenger aboard a vessel that is part of the Boating Club's fleet; such an operation will not be exempted from the provisions of this Section. Non-members of a Boating Club operated from a yacht club with a master lease with the District as set forth in subsection (b) 4 shall also be exempted as long as proof of affiliation

with a school, public outreach organization or other Boating Club not based at the yacht club is maintained aboard the vessel

- (d) Charter Vessel Operation Prohibited at Shelter Island Boat Launching Facility and Parking Lot and all District Facilities other than District Tenant Marinas and Sportfishing Landings.

No Charter Vessel Operation shall in any way use the Shelter Island Boat Launching Facility or parking lot or any District Facilities other than District Tenant Marinas and Sportfishing Landings, with tenant permission in compliance with tenant's lease and this Section 4.37, for docking, embarking or debarking of Passengers, or to park any vehicle or trailer carrying a Charter Vessel. Without limitation as to other District facilities, the Shelter Island Boat Launching Facility and parking lot shall be utilized as a launching facility solely for recreational small craft vessels or fishing vessels with no Passengers for Hire.

- (e) Regulation of Charter Vessel Operations.

All Charter Vessel Operations on San Diego Bay must meet the requirements set forth in this Section.

1. The owner(s), agent(s) or operator of each Charter Vessel, and any crew members of each Charter Vessel shall conform to all rules, regulations and policies prescribed by the District in writing, any ordinances of the District and city in which the Charter Vessel is

operated; any State of California or San Diego County health order, and any federal or state laws, including without limitation regulations prescribed by the United States Coast Guard, as any of the same now exist or may hereinafter be adopted or amended.

2. Furthermore, each Charter Vessel Operator shall meet the following requirements:

United States Coast Guard Licensing: Each Charter Vessel Operation carrying a Passenger for Hire, Small Passenger Vessel, and Uninspected Passenger Vessel shall have aboard at all times during Charter Vessel Operation a Captain licensed by United States Coast Guard.

- a) Insurance: Each Charter Vessel Operator shall maintain insurance as follows:

- 1) Each Charter Vessel Operator shall procure and maintain in effect at all times a commercial marine liability insurance policy covering bodily injury, personal injury, and property damage caused by the Charter Vessel Operator, issued by an insurance company currently licensed by the California Department of Insurance, with a minimum limit of One Million Dollars (\$1,000,000) per occurrence, with a pollution endorsement

providing for an aggregate anper occurrence minimum limit of Nine Hundred Thirty-Seven Thousand, One Hundred Dollars (\$937,100) covering legal liability arising from the sudden and accidental release of pollutants, with the exception of Charter Vessels set forth in subsection 3) below.

- 2) Due to current Charter Vessel insurance market volatility and resulting unavailability or infeasibility in procuring and maintaining excess Charter Vessel insurance, the District will not require Charter Vessel excess insurance for Charter Vessels permitted to carry more than six (6) passengers; however, the Executive Director may, in his or her sole discretion, review the insurance requirements set forth in this section after a period of one (1) year from the effective date of this ordinance, and thereafter update the insurance requirements annually, in accordance with administrative policies, with no amendment to this Section required.

- 3) Insurance requirements for Charter Vessels that are personal watercraft, or jet ski, kayak, canoe or paddleboard may be set by the Executive Director, in accordance with administrative policies, with no amendment to this Section required.
- 4) All liability insurance policies shall contain a cross-liability clause, shall name as additional insured by written endorsement the “San Diego Unified Port District, its officials, employees and agents”, and shall provide that such insurance applies separately to each insured against whom complaint is made or suit is brought except with respect to the limits of the insurer’s liability.
- 5) All insurance policies shall be endorsed to provide thirty (30) days’ written notice to the District of cancellation, non-renewal or reduction in coverage or limits; should a Charter Vessel Operator be unable to obtain such an endorsement from its insurer, then the obligation to provide thirty (30) days’ written notice to the District of cancellation, non-renewal, or a

reduction in coverage or limits shall be the responsibility of the Charter Vessel Operator.

- 6) Proof of the insurance coverage required by Subsections (d) 1. b) 1) through 5) shall be maintained for inspection on each Charter Vessel or made immediately available upon request.

- b) Charter Vessel Documentation and Registration: Each Charter Vessel shall be either registered or documented pursuant to applicable federal or state law. Any Charter Vessel that is a Small Passenger Vessel or an Uninspected Passenger Vessel shall also have and maintain a valid Certificate of Documentation – Coastwise Service, or other designation as allowed by applicable law for a Charter Vessel.
- c) Certificate of Inspection: Each Small Passenger Vessel which requires a Certificate of Inspection, shall be inspected by the United States Coast Guard, and shall obtain and retain in full force and effect a Certificate of Inspection.
- d) Drug Testing Program: Any Charter Vessel Operation, Inspected or Uninspected, when carrying passengers for hire, must have in full force and effect for any employee, licensed captain and any crewman who is required on board the

Charter Vessel, a drug testing program that complies with federal and state law, if applicable, and United States Coast Guard regulations.

- e) Indemnification: Each Charter Vessel Operator shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless the District, its officers, employees and agents for any and all liability, claims, judgments, damages, proceedings, orders, directives, costs, including attorney's fees and costs, or demands arising directly or indirectly from any and all Charter Vessel Operations, except claims and litigation arising out of the gross negligence or willful misconduct of the District.
- f) Business License: Each Charter Vessel Operator shall obtain and maintain in full force and effect a business license/certificate from the city in which the Charter Vessel Operator's business is primarily located.
- g) Seaworthiness: All Charter Vessels must be demonstrated to be Seaworthy and remain Seaworthy. Each Charter Vessel Operator shall comply with Coast Guard requirements for keeping passenger and crew manifests and other information for each departure and shall make all such information

immediately available to the United States Coast Guard, Harbor Police, and/or the District

- h) Each Charter Vessel Operator, whether operating out of a Marina, Sportfishing Landing or any other facility, by doing so consents to boarding of a Charter Vessel at any time by the United States Coast Guard, Harbor Police, or the District, pursuant to applicable law.

3. Charter Vessel Operation Decal Requirements for Charter Vessel Operation operating from District tenant Marinas and Sportfishing Landings.

- a) Each Charter Vessel operating from a District tenant Marina or Sportfishing Landing must visibly display a valid Charter Vessel Operation Decal, located as specified by the District, signifying that a District tenant Marina or Sportfishing Landing has verified the Charter Vessel Operation's compliance with the requirements set forth in this Section 4.37 and the tenant's lease.
- b) Charter Vessel Operation Decals shall jet on the date printed thereon unless such dates are extended by the Executive Director. Each Charter Vessel Operation Decal shall bear a unique identification number which can be traced to the District tenant Marina or Sportfishing Landing that issued the decal and the Charter Vessel and Charter Vessel Operator to which it was issued.

- c) District tenant Marinas and Sportfishing Landings may only issue a Charter Vessel Operation Decal after verifying the Charter Vessel Operation's compliance with this Section 4.3 and only if the Charter Vessel Operation's use of the tenant property is in compliance with the terms of tenant's lease.
- d) District tenant Marinas and Sportfishing Landings may obtain Charter Vessel Operation Decals from the District by paying the Charter Vessel Operation Decal Fee for each decal at the time such decals are received, not when issued by the tenant.
- e) For every Charter Vessel Operation Decal issued, the issuing District tenant Marina or Sportfishing Landing shall completely fill out, sign, and return to District, a District-provided form/checklist and requested supporting documents. The Executive Director may set procedures for the reporting of Charter Vessel Operation Decal issuance by District tenant Marinas and Sportfishing Landings, with no amendment to this Section required.
- f) After issuing a decal, if a District tenant Marina or Sportfishing Landing chooses to revoke a decal which it issued, due to the Charter no longer having permission to use the tenant's facility, non-compliance with this Section 4.37, or any reason not prohibited by law, the tenant shall inform the Charter Vessel,

Charter Vessel Operator, and the District. The District shall list the decal as “revoked” in District’s database as of the date of notice to District from the tenant. Charter Vessel and Charter Vessel Operator shall immediately upon such notice remove and destroy the revoked decal.

- g) If a Charter Vessel or Charter Vessel Operator who has been issued a decal violates, or is alleged to have violated, this Section 4.37, including without limitation subsection (e)1,
- h) District may inform the tenant which issued the decal of such violation or alleged violation.

(f) Penalties.

Any violation of this Section may be punished in accordance with Article 0, Section 0.11 (General Penalty) of this Code, including without limitation, as a misdemeanor or infraction and/or through assessment of Civil Penalties, and also by any other penalty or remedy available at law or in equity. Any fines for a misdemeanor or infraction shall be as set forth in Section 0.11, and any Civil Penalties imposed under these provisions shall be as follows:

1. A first offense in 12 consecutive months - \$500;
2. A second offense in 12 consecutive months- \$2,500;

3. For each additional offense in 12 consecutive months - \$ 5,000 remedies shall be cumulative, and no election of remedies shall apply.

(g) Conflict.

To the extent that any provision of this Section conflicts with or is inconsistent with the provisions of any other District ordinance, regulation, or policy, including but not limited to Board of Port Commissioners Policy No. 380, Sportfishing, and San Diego Unified Port District Code Section 8.02, the provision(s) of this Section shall supersede said Policy and Code provisions.

(h) Invalidity.

If any section, subsection, sentence, clause, phrase or portion of this Section is held to be invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions which shall be enforced to the fullest extent permissible by law to attain the purposes of the Section.

(Enacted February 20, 2001 – Ordinance No. 2123)

(Amended May 11, 2021 – Ordinance No. 3011)

(Amended June 14, 2022 – Ordinance 304)

SECTION NO. 4.38 – REGULATION OF VESSELS – A-1 ANCHORAGE, A-5 ANCHORAGE AND A-9 ANCHORAGE

(a) Purpose:

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix 1) requires the Board of Port Commissioners to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this Section of the San Diego Unified Port District Code is to implement that responsibility within the A-1, A-5 and A-9 Anchorages and Shelter Island Guest Dock.

(b) Definitions:

Certain words and phrases used herein are defined as follows, unless the context requires a different meaning:

1. “A-1 Anchorage” – In North San Diego Bay, the Shelter Island (La Playa Cove) Yacht Basin Anchorage, the water enclosed by a line beginning at latitude 32°42'56.7"N., longitude 117°13'47.1"W.; thence southwesterly to latitude 32°42'53.6"N., longitude 117°13'51.3"W.; thence northwesterly to latitude 32°43'01.3"N., longitude 117°13'59.1"W.; thence northeasterly to latitude 32°43'02.6"N., longitude 117°13'55.5"W.; thence southeasterly to

latitude 32°42'59.8"N., longitude 117°13'50.4"W.; thence southeasterly to the point of beginning.

2. "A-5 Anchorage" – In Central San Diego Bay, the Glorietta Bay Anchorage, the water enclosed by a line beginning at latitude 32°40'42.2"N., longitude 117°10'03.1"W.; thence southwesterly to latitude 32°40'41.2"N., longitude 117°10'06.6"W.; thence northwesterly to latitude 32°40'46.2"N., longitude 117°13'15.6"W.; thence northeasterly to latitude 32°40'46.7"N., longitude 117°10'14.1"W.; thence southeasterly to the point of beginning.
3. "A-9 Anchorage" – In North San Diego Bay, the "Cruiser" Anchorage, the water enclosed by a line beginning at latitude 32°43'35.9"N., longitude 117°11'06.2"W.; thence southwesterly to latitude 32°43'31.5"N., longitude 117°11'13.2"W.; thence southeasterly to latitude 32°43'28.9"N., longitude 117°11'11.0"W.; thence southeasterly to latitude 32°43'25.9"N., longitude 117°11'07.7"W.; thence northeasterly to latitude 32°43'34.8"N., longitude 117°11'03.2"W.; thence northwesterly to the point of beginning.
4. "Anchorage" – Any portion of the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage which has been designated by competent authority for the anchoring of vessels.

5. “Anchoring” – Attachment of a vessel to the bottom or the shore of San Diego Bay using an anchor and proper ground tackle.
6. “Anchoring Permit” – A document conferring the right to use an anchor in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage for a prescribed period of time.
7. “Applicant” – Person (as defined in Section 0.03 of this Code) applying for an Anchoring Permit or Guest Dock Permit.
8. “Cruiser” Vessel – A cruiser vessel is a visiting vessel, not from the County of San Diego, traveling between ports on a voyage.
9. “District” – The San Diego Unified Port District.
10. “Executive Director” – Executive Director of the San Diego Unified Port District.
11. “Permittee” – Person (as defined in Section 0.03 of this Code) who has acquired an Anchoring or Guest Dock Permit from the District to anchor in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage, or the dock at the Shelter Island Guest Dock.
12. “Propulsion System” – A system which is designed to propel a vessel through the water through the use of mechanical power.
13. “Seaworthy” – Describes a vessel in good material condition which is not likely to sink or become a menace to navigation or a

nuisance, and which is capable of getting underway and navigating safely using its own propulsion system, without relying in a tow.

14. “Sewage” – Human body waste, either treated or untreated.
15. “Shelter Island Guest Dock” – In North San Diego Bay, entrance to the Shelter Island Yacht Basin, the slips located at latitude 32°42’58”N., longitude 117°14’07W.
16. “Guest Dock Permit” – A document conferring the right to use an assigned slip at the Shelter Island Guest Dock for a designated period of time.
17. “Vessel” – a watercraft designed to float upon the surface of a body of water for the purpose of transporting Persons or property.
18. “Waste” – Sewage and all other waste or substances associated with human habitation, or of human or animal waste.

(c) Anchoring Permits and Guest Dock Permits

1. No Person, including the owner, master, operator, caretaker, or Person in possession of a vessel, shall anchor a vessel in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage, or dock a vessel at the Shelter Island Guest Dock without first having secured an Anchoring/Guest Dock Permit from the District in the form and manner provided therefor. Vessels shall not remain anchored or docked after Anchoring/Guest Dock Permit has expired.

2. Any vessel anchoring in the A-1 Anchorage, the A-5 Anchorage, the A-9 Anchorage, or docked at the Shelter Island Guest Dock must have a propulsion system and operate under its own power, must have petroleum free bilges, and must be Seaworthy
3. All vessels shall be moored by vessel owner or operator in a safe manner, on cleats, with strong adequate lines. For vessels anchoring, vessels must use adequate ground tackle.
4. All applicants requesting a Guest Dock or Anchorage Permit are required to provide proof of Marine Insurance for the permitted vessel in the following coverage and liability limits: Applicants shall provide proof of Protection & Indemnity (P & I) Insurance with limits of liability not less than \$300,000. Such insurance shall include coverage for bodily injury including death and medical expenses, oil pollution, as well as property damage including coverage for removal and wreck including expenses and costs to dispose of and remove contaminants connected with the vessel. San Diego Unified Port District shall be named an Additional Insured. This insurance requirement is effective May 1, 2024
5. For an Anchoring Permit to be issued for the A-9 Anchorage only, the following must be satisfied: verification of ownership, verification

of registration; inspection for seaworthiness, sanitary facilities, waste containers, safety and fire suppression equipment and other safety and health-related equipment as may be prescribed by law. Vessel may be required to provide a voyage itinerary to prove “Cruiser” status.

6. No Person on board any vessel, on which construction was initiated on or after January 30, 1975, in the A-1, A-5 or A-0 Anchorages shall use the toilet on board such vessel unless it is equipped with a suitable marine sanitation device or other United States Environmental Protection Agency or United State Coast Guard approved device for sewage retention or that is in proper working order. These requirements do not apply to portable devices which can be carried on or off the vessel.

(d.) Vessel Inspections:

As a condition to receiving or maintaining any Anchoring/Guest Dock Permit, the District may inspect any vessel anchored, moored or requesting Anchoring/Guest Dock Permit for proper sanitary, mechanical or other devices or equipment as may be prescribed by law.

(e) Anchoring or Guest Dock Purposes Only:

An Anchoring Permit shall authorize the holder thereof to anchor within the boundaries of the anchorage designated by the Anchoring Permit. A Guest

Dock Permit shall authorize the holder thereof to dock within the slip designated by the Guest Dock Permit

(f) Refusal to Issue Anchoring/Guest Dock Permit:

The District shall have the right at all times to refuse to issue or reissue an Anchoring/Guest Dock Permit to any vessel if it determines that the vessel fails to meet any condition of this Section 4.38, as amended, is not seaworthy, properly maintained, or presents a danger to public safety, District property, other vessels, or the property of another, or if the Permittee, or any other person using, possessing or controlling the vessel fails to comply with any Federal, State or local laws, or any terms and conditions of the Anchoring/Guest Dock Permit, or if the Permittee, or any other Person using, possessing or controlling the vessel has any outstanding fees or charges owed to the District for damage to District property, towing and storage of a vessel, or failing to remove any derelict, beached, or sunken or partially sunken vessel, or causing the abandonment of a vessel.

(g) Permit Guidelines and Limitations

1. A-1 Anchorage – The A-1 Anchorage is a maximum of Seventy-Two (72) hour anchorage open for weekend anchorage only. A-1 Anchoring Permits are available for a Maximum of three (3) days and

shall be issued for the period beginning each Friday at 9:00 AM and ending each Monday at 9:00 AM

a) The Seventy-Two (72) hour period shall be extended on holiday weekends when the holiday, as recognized and observed by the District, is observed on Mondays. The period of the Anchoring Permit shall be extended to Tuesday at 9:00 AM.

b) The Seventy-Two (72) hour period may also be extended or altered for holidays that fall on other than Saturday through Monday, with the approval of the Executive Director or his/her designee.

c) No Person shall anchor a vessel, nor allow a vessel to remain anchored, in the A-1 Anchorage when the Anchoring Permit has expired.

2. A-5 Anchorage – The A-5 Anchorage is a Maximum Seventy-Two (72) hour anchorage, available seven (7) days per week.

a) No person shall anchor a vessel, nor allow a vessel to remain anchored, in the A-5 Anchorage when the Anchoring Permit has expired.

3. No more than Nine (9) permitted days may be issued for either anchorage or both anchorages cumulative to any Person or vessel in any calendar month.

4. A-9 Anchorage – The A-9 Anchorage is designated for use by “Cruiser” Vessels as defined in Section (b)8 and clarified in Section (c) 5, above, of this Section.
 - a) A Cruiser Vessel may not be registered or documented to an address in San Diego County and the owner/operator may not be a resident of San Diego County.
 - b) An A-9 Anchoring Permit will be issued for a Thirty (30) day period.
 - c) No vessel shall be allowed to anchor for more than Ninety (90) days in any Three Hundred Sixty-Five (365) day period.
5. Shelter Island Guest Dock – The Shelter Island Guest Dock has a limited number of slips of various sizes with shore power and potable water. Guest Dock Permits shall be issued for the period beginning each day at 1:00 PM and ending on the day of check-out at 11:00 AM. There are two pump-Out slips that do not require a permit.
 - a) There is a thirty (30) minute time limit at the Pump-Out slips. Pump-Out Slips are not temporary berthing slips, and individuals must remain present and actively pumping out during the utilization of the Pump-Out Slips. Failure to be

present and actively pumping during Pump-Out Slip utilization may result in citation and/or additional charges.

- b) Pump-Out slips must be returned to exact conditions as found in, and any modifications are not permitted.
- c) Nothing can be stored on the dock besides equipment needed for shore power, fresh water, and vessel access.
- d) Early arrivals and late departures are prohibited and may result in citation and/or additional charges.
- e) Non-permit holders are prohibited from launching vessels from the guest docks.

(h) Prohibited Uses and Activities

It shall be unlawful to commit any of the following acts in or to use the A-1 Anchorage, the A-5 Anchorage, the A-9 Anchorage, or the Shelter Island Guest Dock as follows:

1. Business or commercial enterprise is prohibited.
2. Commercial chartering vessels and/or vessels for hire are prohibited.
No person shall load or allow the loading of passengers for hire on any vessel, commercial or otherwise, within the Shelter Island Guest Docks.
3. Barges and floating docks are prohibited.

4. The tying/lashing of dinghies or other small craft are allowed to be tied up to permitted vessel and may not obstruct access to another slip.
5. No more than Two (2) dinghies or other small craft are allowed to be tied up to a permitted vessel, and may not obstruct access to another slip.
6. Vessels more than Sixty-Five (65) feet in length are prohibited from anchoring and docking unless approved by the Executive Director or his/her designee.
7. No materials or supplies shall be stored on floating docks or walkways within the transient dock area. All items must be kept within the confines of the permit holder's vessel. Items left or stored on docks may be confiscated by the District Staff.
8. Water, power, or mooring lines shall not cross the floating docks or main walking areas (Unless power lines are connecting to slip provided outlets).
9. Fueling or transferring of fuel to and from the guest docks strictly prohibited.
10. No modifications or permanent attachments shall be made to the permittee's slip and adjacent areas.

11. Fishing from the Guest Dock and vessels moored to the Guest Dock is prohibited. No Person shall attempt to take any marine life by any method from the San Diego Bay waters.
12. No Person shall swim or dive within Shelter Island Guest Docks area without permission from District Staff. Dive operations require a special permit from District staff.
13. No person shall deposit or cause to be deposited any garbage, refuse, or any other waste materials of any kind from the Guest Dock or vessels moored to the guest dock into the San Diego Bay.
14. No person on board any vessel, on which construction was initialed on or after January 30, 1975, in the A-1, A-5, A-9 Anchorages or Shelter Island Guest Dock, shall use the toilet on board such vessel unless it is equipped with a suitable marine sanitation device or other United States Environmental Protections Agency or United states Coast guard approved device for sewage retention or that is in proper working order. These requirements do not apply to portable devices which can be carried on or off the vessel.
15. Vessel Maintenance

Unified Port District Code Sections, 10.05 and 10.06 are applicable to any maintenance/repairs identified in this section

- a) Vessel maintenance work within the Harbor shall be limited to that ordinarily required to keep the vessel seaworthy and in good condition. Minor repairs to and routine maintenance of a vessel may be made or accomplished in the assigned berthing or mooring space, provided all work is done within the confines of the vessel and not carried on in any manner whatsoever upon the floats or piers, into the water, or onto neighboring vessels.
- b) Sanding and spray painting is strictly prohibited.
- c) Major repairs which include, but are not limited to, construction, repair, or replacement of structural members or portions of the vessel are prohibited.
- d) No use of welding, burning torch, or other open flame.
- e) In no event shall maintenance work performed to a vessel result in damage to District facilities, including paint marks, drill holes, burn marks, and spilled fuel, oil, paint or solvents. The Permittee shall be financially liable for the repair or restoration of any such damage, even if it is caused by relatives, employees, or contract workers of the owner.

- f) District provided trash bins/dumpsters shall not be used for any excessive waste created from maintenance/repairs done to vessels. Vessel owners are responsible for disposing excessive waste from maintenance/repairs offsite.
- 16. Animals shall always be leashed and controlled by the permit holder. Pet owners shall be responsible for all pets' actions within any area of the Shelter Island Guest Docks; including, the floating docks, grass area, and parking lot. Should any pet act as a nuisance by displaying aggressive behavior, roaming free off-leash, defecating, or disturbing the peace, such animal shall be removed, or the District may revoke the permit.
- 17. Disorderly or discourteous conduct by Permittee or guests may result in the immediate cancellation of the permit and removal of the permitted vessel.
- 18. With exception of ADA approved mobility devices, the use of motorized or manually powered vehicles at the guest docks is strictly forbidden. All guests must walk within the guest dock area.
- 19. Anchorage/Guest Dock permits are not transferable. If a vessel changes ownership while at the guest docks any existing reservation

shall end on the day of the transfer of ownership, and maritime staff must be notified.

(i) Violations

1. Any person who violates any provision of this Section is guilty of a misdemeanor unless, at the sole option of the District, the violation is cited and prosecuted as an infraction or addressed through the assessment of civil penalties.
2. An Anchoring Permit may be revoked for violation of any Federal, State, or local statute or ordinance.
3. Any vessel anchored or docked in violation of any provision of this Section is subject to removal and storage, by any Harbor Police Officer, pursuant to Section 8.25 (a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of the vessel.
4. Upon any violation of the rules of this Code or the terms and conditions of the permit, the Executive Director or his/her designee may at his/her sole discretion implement a restriction of 30, 60, or 90 days or permanent ineligibility for permits for the Anchorages and Guest Docks. Persons will be notified by email when their accounts have been placed on a restriction.

(j) Revocation of Anchoring/Guest Dock Permit

The District shall have the right at all times to revoke an Anchoring/Guest Dock Permit to any vessel if it determines that the vessel fails to meet any condition of this Section 4.38, as amended, is not seaworthy, properly maintained, or presents a danger to public safety, District property, other vessels, or the property of another, or if the Permittee, or any other Person using, possessing or controlling the vessel fails to comply with any Federal, State or local laws, or any terms and conditions of the Anchoring/Guest Dock Permit, or if the Permittee, or any other Person using, possessing or controlling the vessel has any outstanding fees or charges owed to the District for damage to District property, towing and storage of a vessel, or failing to remove any derelict, beached, or sunken or partially sunken vessel, or causing the abandonment of a vessel.

(k) Applicant's or Permittee's Right of Appeal

1. If the District refuses to issue an Anchoring/Guest Dock Permit, as described in Section (f), above, and Applicant for such Anchoring Permit believes he/she satisfies all conditions for the issuance of an Anchoring/Guest Dock Permit, Applicant may appeal, in writing, to the Executive Director within Ten (10) calendar days of the date of refusal. The appeal should contain all reasons why Applicant

believes he/she satisfies all conditions for the issuance of said Anchorage/Guest Dock Permit.

2. If the District revokes an Anchoring/Guest Dock Permit as described in Section (j), above, Permittee may appeal such revocation, in writing, to the Executive Director within Ten (10) calendar days of the date of revocation. The appeal should contain all reasons why Permittee believed the revocation of the Anchoring/Guest Dock Permit to be improper.
3. The Executive Director or his/her designated representative shall respond within Ten (10) calendar days of the receipt of appeal, giving a written decision. The decision of the Executive Director or his/her designated representative shall be final.

(Enacted June 3, 2003 – Ordinance No. 2250)

(Amended February 12, 2008 – Ordinance No. 2487)

(Amended September 2, 2008 – Ordinance No. 2522)

(Amended May 9, 2023 – Ordinance No. 3092)

SECTION NO. 4.40 – NORTH SAN DIEGO BAY ANCHORING, MOORING AND AQUATIC ACTIVITIES REGULATED**(a) Purpose**

California law (San Diego Unified Port District Act, Harbors and Navigation Code, Appendix I, Sections 55 and 56) requires the Board of Port Commissioners to regulate and control the anchoring, mooring, towing and docking of vessels, and to make and enforce all necessary rules and regulations governing the use and control of navigable waters within the District. The purpose of this Section of the San Diego Unified Port District Code is to implement that responsibility within North San Diego Bay.

Duly published regulations and restrictions promulgated by competent State or Federal authority shall be paramount in the event of conflict with provisions of this Code.

(b) Definitions

1. “North San Diego Bay” – That part of San Diego Bay between Central San Diego Bay, as that term is defined in Section 4.35(b)1 of this Code, and a line drawn from Zuniga Jetty Light "V" to Zuniga Jetty Light "Z," thence to Point Loma Light.
2. “Moorage Areas” – Those areas located in North San Diego Bay which have been designated in and regulated by this Code for the

mooring of vessels. Moorage areas located in North San Diego Bay are designated and regulated in Section 4.08 of this Code.

3. “Shelter Island Yacht Basin Anchorage” – The Shelter Island Yacht Basin Anchorage, also known as the A-1 Anchorage, as defined in Section 4.38 of this Code.
4. “The Cruiser's Anchorage” – The Cruiser's Anchorage, also known as the A-9 Anchorage, as defined in Section 4.38 of this Code.

(c) Regulations

1. North San Diego Bay, Anchoring Prohibited – North San Diego Bay, with the exception of military security and restricted areas, safety zones, special anchorage for U.S. Government vessels, B Street merchant vessel anchorage, marked channels and other designated anchorage and moorage areas, is reserved for active navigation. Anchoring or mooring in North San Diego Bay, except in moorage areas designated in Section 4.08 of this Code and the anchorage areas designated in Section 4.38 of this Code is prohibited and unlawful.
2. Authorization to anchor in North San Diego Bay outside designated anchorage and moorage areas for a limited period of not more than Seventy-Two (72) hours may be obtained by application to the

office of the Chief of the San Diego Harbor Police. Such authorization may be issued only in special circumstances for anchorage of vessels which comply with all applicable rules of the road, including anchor lights and shapes, in areas of North San Diego Bay which are not subject to specific navigational designations as identified in Section 4.40 (c)1, above.

3. It shall be unlawful for any vessel underway in moorage areas designated in Section 4.08 and anchorage areas designated in Section 4.40(c)1 and 4.38 of this Code, to be operated in excess of Five (5) Miles Per Hour.
4. Watercraft engaged in public works projects, patrol, derelict removal, geological or environmental survey, or other work permitted by competent local, State or Federal authority shall be exempt from this restriction during the course of such work. This section shall not apply to vessels engaged in fishing during daylight hours.

(d) Penalty

1. Any person who violates any provision of this Section shall be guilty of a misdemeanor.
2. Any vessel anchored in violation of any provision of this Section shall be subject to removal and storage by any Harbor Police

Officer pursuant to Section 8.25(a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of any vessel removed and stored pursuant to this Section.

(Enacted February 22, 1994 – Ordinance No.1636)

(Amended March 9, 2004 – Ordinance No. 2287)

ARTICLE 8POLICE MEASURES**SECTION NO. 8.01- DIVING WITHIN SAN DIEGO BAY REGULATED**

- (a) "Underwater diving," as used in this article, shall mean any underwater activity conducted with the aid of any breathing apparatus, faceplate or goggles.
- (b) It shall be unlawful for any person to engage or participate in underwater diving or in any other underwater activity in San Diego Bay except to seaward of Ballast Point; and it shall be unlawful for any person to participate in underwater diving or in any other underwater activity in the main ship channel from Ballast Point southward to lighted bell buoy No. 5.
- (c) The provisions of this section shall not apply to:
 - 1. Persons actually engaged in the inspection, repair and maintenance of vessels secured to a slip or moored in an established small boat basin.
 - 2. Duly authorized persons diving within the limits of the Bay of San Diego during disasters.
 - 3. Duly authorized agents or employees of the United States, the State of California, or any political subdivision thereof while actually engaged under supervision in the construction, care or maintenance of the underwater surfaces of vessels or facilities.

4. Persons actually participating in bona fide program training under the supervision and direction of Naval Authorities within that area of South San Diego Bay designated as a "Seaplane Restricted Area". (Code of Federal Regulations, Title 33, Section 207.612), (Coast & Geodetic Survey Chart No. 5107).
5. Persons actually participating in bona fide program training under the supervision and direction of Naval Authorities within that area of South San Diego Bay designated as a "Seaplane Restricted Area." (Code of Federal Regulations, Title 33, Section 207.612; Coast & Geodetic Survey Chart No. 5107).5.
6. Persons actually participating in bona fide training exercises conducting ascents from a Diving Bell, under the direction and supervision of Naval Authorities at the 70' deep off the Ballast Point Fuel Annex Pier.
7. Persons actually engaged in the construction, inspection, repair or maintenance of vessels and marine facilities provided that:
 - a) Such persons apply for and receive written permission from the Executive Director to conduct such activities; and
 - b) That there shall be an assistant present who shall be on the surface of the water close over the person engaged in

underwater activity, able and equipped to make a conspicuous display of the signals prescribed for diving.

(Enacted March 14, 1963 – Ordinance No. 20)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.02- PARK AREAS REGULATED

- (a) For purposes of this Section, a "Public Park" of the District is defined as follows, and as shown on maps on file with the Clerk of the District, which may be updated by the Executive Director without further action by the Board.
1. "Shoreline Park" on Shelter Island in the City of San Diego, the public area bayward of Shelter Island Drive to the waterline, bordered on the north by the northwestern fence line of the parking lot north of the traffic circle, on the west by the public dock, and on the east by the private leaseholds, including the fishing pier and boat launching ramp.
 2. "Harbor Island Park" on Harbor Island in the City of San Diego, bordered on the north by Harbor Island Drive, on the south by the waterline, on the west by the entrance to the public parking lot, and on the east by the point where the grass narrows to a uniform width along the waterline.
 3. "Spanish Landing Park" in the City of San Diego, bordered on the north by North Harbor Drive, on the south by the waterline, on the west by the intersection of the waterline with the Navy Estuary Bridge, and on the east by the end of the grassy area east of Cancer Survivors Park.

4. "Tuna Harbor Park" in the City of San Diego, the public area bayward of North Harbor Drive, bordered on the north by the roadway parallel to the Midway Memorial, on the south by the grassy area at the north end of Seaport Village, and on the west by the waterline, including the area north of G Street between the waterline and the northern curblin of the parking lot, excluding G Street.
5. "Embarcadero Marina Park North" located at the southern end of Kettner Boulevard in the City of San Diego, on the peninsula south of the sidewalk at Seaport Village.
6. "Embarcadero Marina Park South," located southwest of the Convention Center in the City of San Diego, on the peninsula south of the sidewalk that crosses Marina Parkway, including the fishing pier.
7. "Caesar Chavez Park" in the City of San Diego, bordered by Cesar Chavez Parkway, Crosby Road, the waterline, and a wall, including the recreational pier.
8. "Pepper Park" in National City, located at the southern end of Tidelands Avenue, bordered by fence lines and the waterline, including the boat launching ramp and fishing pier.

9. "Chula Vista Bayside Park" in the City of Chula Vista, located where G Street meets the Bay, bordered by fence lines and the waterline.
10. "Chula Vista Bayfront Park" in the City of Chula Vista, on the peninsula at the end of Marina Way, including the boat launching ramp.
11. "Marina View Park" in the City of Chula Vista, bordered by Marina Way, Marina Parkway, a fence line, and the waterline.
12. "Portwood Pier Plaza" in the City of Imperial Beach, the public areas bordered by the sidewalks on Seacoast Drive and Elder Avenue, the beach, and an alley, including the fishing pier.
13. "Dunes Park" in the City of Imperial Beach, bordered by the sidewalk on Seacoast Drive, the beach, and fence lines.
14. "Grand Caribe Shoreline Park" in the City of Coronado, located at the end of the Grand Caribe Causeway, bordered by the waterline and a fence line.
15. "Coronado Tidelands Park" in the City of Coronado, bordered by the sidewalk on Glorietta Boulevard, Mullinix Drive southerly to the waterline, and a fence line.
16. "Coronado Landing Park" in the City of Coronado, at the foot of Orange Avenue along the waterline from the walkway bayward,

bordered on the east by the parking lot east of the ferry landing, and on the west by the end of the sand area and eastern end of the adjoining rocks, excluding the fishing pier and ferry landing.

17. "Broadway Pier" in the City of San Diego, at the foot of Broadway, west of the sidewalk bayward of North Harbor Drive.
18. "Ruocco Park" in the City of San Diego, on the west side of Pacific Highway and bordered on the north by North Harbor Drive and the south by Seaport Village and on the west by Tuna Harbor boat docking area.
19. "Greatest Generation Walk Park" in the City of San Diego, on the west side of North Harbor Drive starting at the exit of the driveway to the USS Midway Museum and Navy Pier and extending south to G Street and the entrance to the Tuna Harbor parking lot and bordered on the west by the waterline.
20. "Broadway Landing" in the City of San Diego, located on the west side of North Harbor Drive from the north side of Navy Pier to the south side of B Street Pier and bordered by the waterline.
21. "Lane Field Park" in the City of San Diego, located along the east side of North Harbor Drive from the corner of West Broadway up to the fence line of the Navy property and across from Broadway Pier and B Street Pier.

22. “North Embarcadero Promenade” in the City of San Diego, located on the west side of North Harbor Drive starting at the south side of B Street Pier and extending northbound to Grape Street and bordered by the waterline.
 23. “Sweetwater Park” in the City of Chula Vista, located north, west, and southwest of the RV park in the Sweetwater District of the Chula Vista Bayfront Master Plan, and westerly of the future alignment of E Street. Sweetwater Park is designated as a passive park.
 24. Any other land designated as a public park.
- (b) Within the limits of a Public Park of the District:
1. No person shall use any area or facility set aside, used, maintained or designated for a specific recreational or park purpose by the Board or the Executive Director, which purpose is reasonably apparent from the appearance, construction or designation of such facility or area, or as to which reasonable notice of such designation or purpose is given by signs posted thereon, for a purpose contrary to or inconsistent with such specific or designated purpose.
 2. No person shall land, release, take off or fly any balloon (except children’s toy balloons not inflated with any flammable material), helicopter, parakite, hang glider, aircraft or powered models thereof except by permit duly issued by the Executive Director.
 3. No person shall engage in any voluntary parachute jump.

4. No person shall use any bow or crossbow, or throw or release any arrows.
5. No person shall remove any wood, tree, shrub, plant, turf, grass, soil, rock, sand or gravel.
6. No person shall cut, break, injure, tamper with, deface or disturb any tree, shrub, plant, rock, building, monument, fence, bench, structure, apparatus, equipment or property; or mark, paint, post or write upon any building, monument, fence, bench or other structure; or post, place or erect any bills, notice, paper or advertising device or matter of any kind.
7. No person shall enter, remain, stay or loiter in any Public Park between the hours of 10:30 p.m. and 6:00 a.m. of the following day. For any Public Park or recreational facility subject to this provision, the Executive Director may extend the 10:30 p.m. closing time for up to One (1) hour to accommodate any District approved event. The Embarcadero Marina Park South fishing pier, the Shoreline Park fishing pier on Shelter Island, including the automobile parking lot immediately adjacent thereto, the Portwood Pier Plaza fishing pier, Greatest Generation Walk Park, Broadway Landing, Lane Field Park and North Embarcadero Promenade shall not be subject to the closing time provision.
8. No person shall drive or ride any cycle or vehicle, whether powered by a motor or human power, except on paths, roads or drives

designed and provided for such purposes.

9. No person shall make or kindle a fire or cook food, except on a stove or masonry or concrete hearth or fire circle provided for such purposes, or on a portable stove or hearth of an approved type and in areas specifically posted for such use.
10. No person shall throw, discard or deposit any paper, rubbish, debris, ashes, dirt, bottles, cans, trash or litter of any kind or nature whatsoever, except in receptacles specifically provided therefor.
11. No person shall discharge any firearms, firecrackers, fireworks, rockets, model rockets, torpedoes, airgun or slingshot.
12. No person shall assemble, collect or gather together in any walk, driveway, passageway or pathway in any Public Park or in other places set apart for the travel of persons or vehicles in or through any Public Park or occupy the same so that the free passage or use thereof by persons or vehicles passing along the same shall be obstructed in any manner.
13. No person shall roller skate, use or ride any skateboard.
14. No person shall erect, use or occupy any tent, lodge, camp or shelter.
15. No person shall play any game of ball or engage in any sport, athletic game or contest or any kind except at such places and at such times as designated for such purpose by action of the Board or by the Executive Director.

16. No person shall clean, wash or polish, or make other than emergency repairs to any automobile, motorcycle or self-powered vehicle.
17. No person or group of persons exceeding twenty-five (25) in number shall hold, conduct or participate in any celebration, parade, service or picnic in any Public Park without first obtaining a permit from the District.
18. No person shall possess an aerosol container of paint or other liquid substance capable of and intended to be used for defacing any Public Park property.
19. No person shall launch or retrieve any vessel, boat or barge at the boat launching ramp, adjacent float, docks or piers within the Chula Vista Bayfront Park during the time period beginning One (1) hour after sunset and ending One (1) hour before sunrise the next day (local time) without the prior written permission of the Executive Director.
20. No person shall operate any vessel, boat or barge carrying passengers, merchandise, building materials, petroleum products, compressed gas or cargo to or from the boat launching ramp, float, docks or piers within the Chula Vista Bayfront Park and any point, location, vessel, boat, barge, structure or dock within San Diego Bay without the prior written permission of the Executive Director.

21. No person shall operate any vessel, boat or barge carrying passengers for hire or passengers for any other commercial endeavor or venture, merchandise, building materials, petroleum products, compressed gas or cargo to or from the ramp, float, dock or pier at the Pepper Park boat launching ramp and park complex in National City and any point without obtaining a properly executed permit as provided for in Section 8.02(f) of this Code.
22. Pursuant to a sunset provision, Subsection 8.02(a) 25 was repealed on October 30, 1995.
23. No person shall launch or retrieve, or attempt to launch or retrieve, any vessel at the boat launching ramp at Shoreline Park on Shelter Island unless the size of the vehicle, including any attached trailer, load or vessel thereon, does not exceed Eight and One-Half (8-1/2) feet in width or Forty Five (45) feet in length, except that subject to prior express written permission of the Executive Director, for special events the length restriction of Forty Five (45) feet may be increased to a length not to exceed Sixty Five (65) feet

24. With respect to the public promenade surrounding the Rady Shell event venue in Embarcadero Marina Park South, the following are not permitted in the two hours prior to and for the duration of a scheduled performance at the Rady Shell: (A) use or transport of any object that can or may impede or restrict the free and easy passage of persons and/or vehicles, including, but not limited to, tents, awnings, canopies, shades, chairs, tables, benches, coolers, ice chests, storage wagons, storage containers, and/or portable stoves or hearths or other cookware; and (B) any access to the riprap adjacent to such public promenade for any purpose.

25. This Section 8.02(b)(24) is not intended to and does not in any way affect other provisions of the Port Code applicable to any Public Park, including, but not limited to, Port Code Section 8.02(b)(12).

(c) Within the limits of any such Public Park containing a fishing or recreational pier:

1. No person shall operate any vehicle on a fishing or recreational pier, except as permitted by the Executive Director.
2. No person shall ride a bicycle, scooter, skate, skateboard or other wheeled device on any pier. Subdivisions 1 and 2 of this provision shall not apply to the use of wheelchairs by persons whose physical condition necessitates such use.
3. No person shall dive or jump, or cause another to fall, dive or jump from

a pier, or climb or be on the outside of the railing of a pier except for the purpose of rescuing or saving lives.

4. No person shall swim, operate or otherwise use a surfboard, skindive or use self-contained underwater breathing apparatus within an area described as one hundred (100) feet of either side of the pier.
5. No person shall climb or crawl on the pier railings, pilings or under structures.
6. No person shall do any overhead casting or allow any fishing lure or hook to pass inboard of the pier railing while casting.
7. No person shall clean any fish except at locations provided for that purpose.
8. No person shall use more than Two (2) poles or drop lines at any one time.
9. No person shall fish or trap sea life for commercial purposes.
10. No person shall use any fishing spear or spear gun.

(d). Within the limits of any Public Park that this code designates as a passive park, the following additional restrictions apply:

1. The use of amplified sound is prohibited.
2. Reservations for group events and activities are prohibited and permits under section 8.02(b)(17) shall not be issued.

- (e) Nothing contained in these provisions shall be construed to prohibit any authorized employee, agent or contractor of the District from doing any act which the Board or the Executive Director may deem necessary or proper for the maintenance, improvement or betterment of any of said Public Park; furthermore, nothing herein contained shall be applicable to prohibit the performance by a peace officer in the exercise of authorized duties.
- (f) Whenever the privilege of using a Public Park area for doing any of the acts hereinbefore enumerated in this section requires obtaining a permit, permission or consent from the Executive Director, the following procedure shall be followed:
 - 1. An application for a permit shall be filed not less than Ten (10) days before the date on which the proposed activity or event is to be conducted.
 - 2. The application shall include information as to the proposed activity, the sponsoring person or organization, the number of persons expected to attend, the proposed area to be used, the proposed date and time of the event, the duration in time, and may include proposed alternate areas and dates.
 - 3. The Executive Director shall review the application and thereafter shall have the right to give or not to give a permit. In reaching a decision, the Executive Director may waive the Ten (10) day filing

requirement of subsection 1, above, may consider whether activity will conflict or interfere with any other event previously scheduled and whether the activity will unreasonably add to congestion or interfere with or impede the normal flow of vehicular or pedestrian traffic.

4. Each permit shall state the date, time and area of the park for which it is issued, the name of the person or persons to whom it is issued and any conditions and limitations upon which the permit is given.
5. Each permit shall be subject to the requirements regarding noise and parades as contained in the Municipal Code of the particular City in which the park is located. In the City of San Diego, the applicable provisions include, but are not limited to, Municipal Code §59.5.0101 et seq.
6. If a permit is not given, the applicant may submit a new request proposing an alternate date, time or location.
7. When a permit is not given, the applicant may, within Fifteen (15) days after receiving notice thereof, request such a permit from the Board of Port Commissioners by filing a request therefor with the Clerk of the District. If a timely request is not so filed, the decision of the Executive Director shall be final. In the event a timely request is filed, the Clerk of the District shall cause the matter to be placed as an appearance item on the agenda of a regular meeting of the Board that is scheduled within the next Thirty (30) days. The item on the agenda shall not be a hearing nor shall evidence be taken. The applicant may appear, make a presentation and request a

permit. The Board shall thereafter have the absolute right to either give or not to give a permit and that decision of the Board shall be final.

- (g) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provisions or application, and to this end the provisions of this section are severable.

(Enacted July 1, 1980 – Ordinance No. 879)

(Amended September 11, 1984 – Ordinance No. 1078)

(Amended March 17, 1987 – Ordinance No. 1208)

(Amended December 20, 1988 – Ordinance No. 1293)

(Amended November 21, 1989 – Ordinance No. 1342)

(Amended April 23, 1991 – Ordinance No. 1422)

(Amended September 20, 1994 – Ordinance No. 1693)

(Amended September 6, 2005 – Ordinance No. 2355)

(Amended December 5, 2006 – Ordinance No. 2430)

(Amended May 8, 2007 – Ordinance No. 2450)

(Amended August 5, 2008 – Ordinance No. 2517)

(Amended August 14, 2012 – Ordinance No. 2684)

(Amended September 16, 2014 – Ordinance No. 2778)

(Amended March 14, 2023 – Ordinance No. 3079)

SECTION NO. 8.03 – EMERGENCY PARK CLOSURE

- (a) Whenever a danger to the public health or safety is created in any public park by such causes as flood, storm, fire, earthquake, explosion, accident or other disaster, or by riot or unlawful assembly, the Executive Director or the Harbor Police may close the area where the danger exists for the duration thereof to any and all persons authorized to enter or remain within such closed area.
- (b) The Harbor Police may close the immediate area surrounding any emergency field command post established for the purpose of controlling any dangerous condition stated in this section to all unauthorized persons.
- (c) No unauthorized person shall willfully and knowingly enter an area closed pursuant to subdivisions (a) or (b) of this section nor shall willfully remain within such areas after receiving notice to evacuate or leave the area from any peace officer.

(Enacted July 1, 1980 – Ordinance No. 879)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.04 – PROHIBITING THE CULTIVATION OF MARIJUANA ON DISTRICT TIDELANDS**(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. “Cannabis” shall have the same meaning as set forth in California Business & Professions Code §19300.5(f), as may be amended from time to time.
2. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis or cannabis products.
3. “Marijuana” means cannabis.

(b) Prohibition

The cultivation of marijuana within the District’s jurisdiction, on District tidelands, submerged lands granted to the District, and any other lands conveyed to or acquired by the District is prohibited.

(c) Enforcement

The Executive Director or designee is hereby directed to enforce this prohibition pursuant to Section 0.11 of this Code.

(d) Preemption

Pursuant to Section 60 of Harbors and Navigation Code Appendix I, this Section is intended to preempt local regulation of marijuana on District tidelands and submerged lands granted to the District, and any other lands conveyed to or acquired by the District.

(Amended, January 1, 2016 – Ordinance No. 2847)

SECTION NO. 8.05 – VENDING AND EXPRESSIVE ACTIVITY REGULATED**(a) Definitions**

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

1. "Allotted Space" or "Allotted Spaces" — the space or spaces located inside a Designated Area. Depending on the Designated Area in which the Allotted Space is located, an Allotted Space shall measure four (4) feet by four (4) feet, four (4) feet by eight (8) feet, eight (8) feet by six (6) feet, ten (10) feet by six (6) feet, or ten (10) feet by ten (10) feet.
2. "Broadway Landing" – the District-designated public park in the City of San Diego, consisting of the non-leased portions of space bordered on the west by the North Embarcadero Promenade, on the east by North Harbor Drive, on the north by an imaginary line extending from the southern edge of B Street Pier to Harbor Drive and on the south by an imaginary line extending from the northern edge of Navy Pier to North Harbor Drive.

3. “Broadway Pier” – the District-designated public park in the City of San Diego, located at the foot of Broadway, west of the sidewalk bayward of North Harbor Drive.
4. “Cesar Chavez Park” - the District-designated public park in the City of San Diego, bordered by Cesar Chavez Parkway, Crosby Street, the waterline, and a wall, including the recreational pier.
5. “Chula Vista Bayfront Park” - the District-designated public park in the City of Chula Vista, on the peninsula at the end of Marina Way, including the boat launching ramp.
6. "Chula Vista Bayside Park" — the District-designated public park located in the City of Chula Vista, bordered by Bayside Parkway on the north and the waterline immediately preceding the Chula Vista Harbor with a fishing pier on it.
7. “Chula Vista Marina View Park” - the District-designated public park in the City of Chula Vista, bordered by Marina Way, Marina Parkway, a fence line, and the waterline.
8. “Commercial Vending” – Vending of commercial merchandise, which includes items that have more than a nominal or functional utility apart from their communicative or expressive purpose (i.e., items that have functional utility and that are not limited to the following: food, including water, and food products; house wares including

dishes or eating utensils, appliances, cosmetics, beauty supplies, oils, lotions, and perfumes, incense, candles, handcrafts, jewelry, hats, visors, sunglasses, souvenirs, toys and stuffed animals.

9. "Commercial Vendor" – a person who engages in Commercial Vending. This includes a vendor who is an employee or agent of another.
10. "Coronado Landing Park" — the District-designated public park located in the City of Coronado, at the foot of Orange Avenue along the waterline from the walkway bayward, bordered on the east by the parking lot east of the ferry landing, and on the west by the end of the sand area and eastern end of the adjoining rocks, excluding the fishing pier and ferry landing.
11. "Coronado Tidelands Park" — the District-designated public park located in the City of Coronado, bordered by the sidewalk on Glorietta Boulevard, Mullinix Drive southerly to the waterline, and a fence line.
12. "Designated Area" or "Designated Areas" — the ten (10) areas on Tidelands designated by the District for the uses designated in this Section. A map depicting the Designated Areas is attached to this Section and is also available for inspection and copying in the Office of the District Clerk.

13. "Donation" — a gift; a voluntary act which is not required and does not require anything in return.
14. "Dunes Park" - the District-designated public park in the City of Imperial Beach, bordered by the sidewalk on Seacoast Drive, the beach, and fence lines.
15. "Embarcadero Marina Park North" — the District-designated public park located at the southern end of Kettner Boulevard in the City of San Diego, on the peninsula south of the sidewalk at Seaport Village.
16. "Embarcadero Marina Park South" — the District-designated public park located southwest of the Convention Center in the City of San Diego, on the peninsula south of the sidewalk that crosses Marina Parkway, including the fishing pier.
17. "Expressive Activity" – Expressive Activity includes all forms of speech and expressive conduct, including but not limited to (1) the distribution of non-commercial information, (2) solicitation of funds, donations, subscriptions and/or signatures for a charity, religious organization, non-profit, or government entity, and (3) the sale of or performing artwork, speeches, and/or performances that are inherently communicative in nature and have only nominal value or purpose apart from its communication. Such items include but are

not limited to the following: newspapers, leaflets, pamphlets, bumper stickers, buttons, books, audio, video, compact discs, video discs, records, sculptures, paintings and photographs, including prints of paintings and photographs, political campaigning activity, including the distribution of literature, stickers, shirts, cups or other promotional material such as signs and campaign messages, and any other similar item that is inherently communicative and has only nominal value or purpose apart from its communication. Expressive Activity shall not include (a) the provision of personal services such as hair weaving or massage (b) the application of substances or handcrafts to others' skin or body parts including but not limited to piercings, or ink, paints or dyes applied with a needle or machine (non-Henna tattoos), (c) the creation of Visual Art which is mass produced or produced with limited variation, or (d) the creation of Handcrafts. This list of exclusion is not intended to be exhaustive.

18. "Fifth Avenue Landing Park" - the District-designated public park in the City of San Diego, bordered on the north by the parking lot of the Fifth Avenue Landing leasehold, to the west by the South Embarcadero Promenade, on the east by Convention Way and on the south by San Diego Bayfront Park.

19. "Food" or "Food Products" — any type of edible substance or beverage.
20. "Goods" or "Merchandise" — any items that are not a food product.
21. "Grand Caribe Shoreline Park" - the District-designated public park in the City of Coronado, located at the end of the Grand Caribe Causeway, bordered by the waterline and a fence line.
22. "Handcrafts" — objects made either by hand or with the help of devices used to shape or produce the objects through such methods as weaving, carving, stitching, sewing, lacing, welding or beading including but not limited to objects such as jewelry (articles made of precious metals, metal, stones, glass or gems such as necklaces, bracelets, earrings, or rings used or intended for personal adornment), pottery, silver or metal work, leather goods, and trinkets. Handcrafts are not likely to communicate a message, idea, or concept to others, are often mass-produced or produced with limited variation, and often have functional utility apart from any communicative value they might have. Handcrafts do not include Visual Art.
23. "Harbor Island Park" – the District-designated public park on Harbor Island, bordered on the north by Harbor Island Drive, on the south by

the waterline, on the west by the entrance to the public parking lot, and on the east by the point where the grass narrows to a uniform width along the waterline.

24. “Lane Field Park” – the District-designated public park in the City of San Diego, along the east side of North Harbor Drive from the corner of West Broadway up to the fence line of the Navy property and across from Broadway Pier and B Street Pier.
25. "North Embarcadero Promenade" (Promenade) — the District-designated public park approximately eight (8) foot to twenty (20) foot wide manmade promenade in the City of San Diego that runs parallel to San Diego Bay from the north edge of Laurel Street to the northern edge of Seaport Village located at 849 West Harbor Drive, San Diego.
26. “Pepper Park” - the District-designated public park in the City of National City, located at the southern end of Tidelands Avenue, bordered by fence lines and the waterline, including the boat launching ramp and fishing pier.
27. "Person" – natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

28. “Person Engaged in Expressive Activity” - A person who engages in Expressive Activity. This includes the employers, employees, and agents of the person.
29. “Point Loma Marina Park” – the District-designated public park in the City of San Diego, located bayward of North Harbor Drive and bordered immediately to the east by the Point Loma Marina leasehold.
30. “Portwood Pier Plaza” - the District-designated public park in the City of Imperial Beach, consisting of the public areas bordered by the sidewalks on Seacoast Drive and Elder Avenue, the beach, and an alley, including the fishing pier.
31. “Ruocco Park” - the District-designated public park in the City of San Diego, located at the southwest corner of Pacific Highway and North Harbor Drive, bordered on the west by the North Embarcadero Promenade, on the south by a seafood company leasehold, on the east by Pacific Highway and on the north by North Harbor Drive.
32. “San Diego Bayfront Park” - the District-designated public park in the City of San Diego, bordered on the south by the South Embarcadero Promenade, on the west by Fifth Avenue Landing Park, on the north by Convention Way, and on the east by a hotel leasehold.

33. "Sculpture" — A three-dimensional work of art that is created through shaping solid material such as wood, stone, clay or metal by carving, modeling, or similar methods and intended for display as a piece of art.
34. "Shelter Island Shoreline Park" – the District-designated public park in the City of San Diego, located bayward of Shelter Island Drive to the waterline, bordered on the north by the northwestern fence line of the parking lot north of the traffic circle, on the west by the public dock, and on the east by the private leaseholds, including the fishing pier and boat launching ramp.
35. "South Embarcadero Promenade" – the District-designated public park consisting of a manmade promenade approximately eight (8) to twenty (20) feet wide in the City of San Diego that runs parallel to San Diego Bay from the northern edge of Seaport Village located at 849 West Harbor Drive to the fence on northwest side of the Tenth Avenue Marine Terminal.
36. "Spanish Landing Park" – the District-designated public park in the City of San Diego, bordered on the north by North Harbor Drive, on the south by the waterline, on the west by the intersection of the

waterline with the Navy Estuary Bridge, and on the east by the end of the grassy area east of Cancer Survivors Park.

37. "Sweetwater Park" — the District-designated public park in the City of Chula Vista, located north, west, and southwest of the RV park in the Sweetwater District of the Chula Vista Bayfront Master Plan, and westerly of the future alignment of E Street.
38. "Tidelands" — those areas in the member cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego under the control and jurisdiction of the San Diego Unified Port District and not under lease to private parties. Tidelands shall include without limitation streets, parking lots, sidewalks, alleys, plazas, parks, piers, beaches, sea walls and open public lands.
39. "Tuna Harbor Park"- in the City of San Diego the District-designated public park located bayward of North Harbor Drive, bordered on the north by the roadway parallel to the USS Midway Museum, on the south by the grassy area at the north end of Seaport Village, and on the west by the waterline, including the area north of "G" Street between the waterline and the northern curb line of the parking lot, excluding "G" Street.
40. "Vend" or "Vending" — to sell, offer for sale, expose or display for sale, solicit offers to purchase, or to barter Food, Goods, Handcrafts, Merchandise, Visual Arts, or services in any public area, whether

stationary or roaming, from a stand, pushcart, motor vehicle, or by a person with or without the use of any other device or other method of transportation. To require someone to pay a fee or to set, negotiate, or establish a fee before providing goods or services constitutes vending. Requests for donations or accepting donations in exchange for merchandise also constitute vending.

41. "Vendor" — a Person who vends. This includes a Vendor who is an employee or agent of another.
42. "Visual Art" — Sculptures or drawings or paintings, applied to paper, cardboard, canvas, or other similar or technologically equivalent medium through the use of brush, pastel, crayon, pencil, stylus, or other similar object.

(b) Findings and Purposes

The Board of Port Commissioners of the San Diego Unified Port District finds and declares as follows:

1. The North Embarcadero Promenade
 - a) Health, Safety, and Welfare. The North Embarcadero Promenade (Promenade) is a designated District park. The Promenade is a major tourist attraction on Tidelands and receives hundreds of thousands of visitors every year. For a public promenade, it is narrow at only eight (8) to twenty (20) feet in width and must accommodate walkers, runners, bicycle

- b) and scooter riders, pedicabs, cruise ship passengers, and visitors. Its total distance in the busiest portion of the Promenade which runs from Grape Street through the San Diego Convention Center comprises only 1.3 miles and contains 30 acres of public space. Because of the presence of parking lots immediately adjacent to the Promenade to provide vehicle access to San Diego Bay, visitors parking near the Promenade must be afforded access. Vending and Expressive Activity on the Promenade must be regulated because the equipment and activities that accompany Vending and Expressive Activity, including tables, displays, chairs, umbrellas, and pushcarts, and impeding and interacting with pedestrians is incompatible with the narrow confines of the Promenade and poses a risk of accidents and injury to walkers, runners, bicycle riders, pedicabs, cruise ship passengers, and visitors as they attempt to navigate narrow paths congested with Vendors and Persons Engaged in Expressive Activities and associated equipment. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County

- c) Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning. Finally, the total number of Vendors and Persons Engages in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left, thrown, discarded or deposited on the street, sidewalks, pathways, gutters, storm drains, or upon public land or tenant leaseholds.
- d) Use and Enjoyment of Natural Resources and Recreational Opportunities. As explained above, the Promenade does not have the capacity to accommodate unregulated Vending and Expressive Activity. Inhibiting travel along the Promenade also inhibits residents' and visitors' use and enjoyment of recreational opportunities and historic attractions to which the Promenade provides direct access, including Broadway Pier, the Maritime Museum of San Diego, harbor tour vessels, Navy Pier/U.S.S. Midway Museum, restaurants, and other sites. In addition, noise associated with Vending and Expressive

- e) Activity must be regulated to ensure residents' and visitors' use and enjoyment of natural resources and recreational opportunities along the Promenade and at the historic and commercial attractions listed above.
 - f) Interference with Scenic and Natural Character. Along with access to the recreational opportunities and historic attractions, the Promenade also offers residents and visitors a clear view of the scenic San Diego Bay and the bayfront cityscape. Unregulated Vending and Expressive Activity along the Promenade would block access and views, interfering with the scenic and natural character of the Promenade.
2. Embarcadero Marina Park North and Embarcadero Marina Park South
- a) Health, Safety, and Welfare. Embarcadero Marina Park North and Embarcadero Marina Park South are sites often used for recreation and events that require individual park permits, as well as pre-planning and notice to the District. The paths that run around and through these parks are narrow and intended for ingress and egress from the parks or for walking, bicycling, or other recreational pursuits. These parks rest mostly as small peninsulas in the San Diego Bay, with both parks having

- b) only one route to and from the park. Unregulated Vending and Expressive Activity in these parks creates an unsafe environment for pedestrians and other users, as the tables, displays, chairs, umbrellas, and pushcarts, and impeding and interacting with pedestrians is incompatible with the nature of the park and poses a risk of accidents and injury to pedestrians and other users of the parks. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning. Finally, the total number of Vendors and Persons Engaged in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left, thrown, discarded or deposited on the streets, sidewalks, pathways, gutters, storm drain, or upon public land or tenant leaseholds.

- c) Use and Enjoyment of Natural Resources and Recreational Opportunities. The parks are available to the public for hosting larger gatherings or smaller get-togethers like picnics. Unregulated Vending and Expressive Activity would occupy spaces in the parks for these events and prevent residents and visitors from using and enjoying the parks' resources. In addition, noise associated with Vending and Expressive Activity must be regulated to ensure residents' and visitors' use and enjoyment of natural resources and recreational opportunities along the parks, paths and other gatherings and events that occur in this area.
- d) Interference with Scenic and Natural Character. Situated directly on San Diego Bay, these parks offer some of the best views of San Diego Bay as well as Coronado and, as explained above, are popular picnic areas. Unregulated Vending and Expressive Activity would change the nature and diminish the purpose of these parks, by blocking views from the parks and of the parks themselves

3. Tuna Harbor Park

- a) Health, Safety, and Welfare. The pathways along the perimeter of Tuna Harbor Park are narrow and designed for pedestrian access. These pathways are not designed to accommodate tables, chairs, or other equipment used in the course of Vending and Expressive Activity. Unregulated Vending and Expressive Activity in the park would create unsafe conditions for this park's regular volume of foot-traffic and visitors. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning. Finally, the total number of Vendors and Persons Engaged in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left thrown, discarded or

- b) deposited on the streets, sidewalks, pathways, gutters, storm drains, or upon public land or tenant leaseholds.
- c) Use and Enjoyment of Natural Resources and Recreational Opportunities. This park is a popular gathering place for visitors and residents to view the USS Midway Museum and San Diego Bay from the landside. Unregulated Vending and Expressive Activity in the park would occupy and block spaces and pathways in the park intended for residents and visitors to picnic, walk, run, and otherwise use and enjoy the park. In addition, noise associated with Vending and Expressive Activity must be regulated to ensure residents' and visitor' use and enjoyment of natural resources and recreational opportunities including but not limited to the USS Midway Museum viewing platform, the Unconditional Surrender Statue, National Salute to Bob Hope and the Military attraction, and other commemorative plaques and public artworks within this area.
- d) Interference with Scenic and Natural Character. As explained above, this park is a popular gathering place to view the USS Midway Museum and San Diego Bay from the landside. Unregulated vending in this park causes visual clutter/blight

along the park and San Diego Bay, and impedes views of the bay and the USS Midway Museum

4. Coronado Tidelands Park

- a) Coronado Tidelands Park is adjacent or near to the Coronado Ferry Landing, and numerous residences. The Park also provides marked baseball, softball and soccer fields for organized athletics and other games, which often draw spectators. It also contains paths for recreational activities including bicycle riding, running or walking, and the use of pedicabs and other four-wheeled bicycles rented from nearby businesses. All sidewalk paths through the park are narrow and designed for pedestrian ingress and egress. Unregulated Vending and Expressive Activity in this park creates safety concerns because it would block access for pedestrians' and others' use of the pathways, impedes views of the bay and the ingress and egress of visitors to the park. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning.

- b) Finally, the total number of Vendors and Persons Engaged in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left, thrown, discarded or deposited on the streets, sidewalks, pathways, gutters, storm drains, or upon public land or tenant leaseholds.
- c) Use and Enjoyment of Natural Resources and Recreational Opportunities. As explained above, this park includes marked baseball, softball and soccer fields for organized athletics and other games, which often draw spectators. Unregulated Vending and Expressive Activity on these fields or the pathways to these fields would block access and conflict with scheduled and unscheduled athletic activities. In addition, noise associated with Vending and Expressive Activity must be regulated to ensure residents' and visitors' use and enjoyment of natural resources and recreational opportunities with this area.
- d) Interference with Scenic and Natural Character. Along with organized recreational activities, this park provides unimpeded access and views of San Diego Bay, particularly

north to downtown San Diego. Unregulated Vending and Expressive Activity would change the character of this park in that it would block such views and the places to take in the views.

5. Orange Avenue Area

- a) Health, Safety, and Welfare. The Orange Avenue Area, located in the City of Coronado, is a subarea identified in the Port Master Plan and is located between Orange Avenue — the former site of the Coronado Ferry Landing — and the multiple-story Oakwood Garden Apartments. The Orange Avenue Area includes shoreline park space, a promenade, and many tables and chairs for outdoor gatherings and events. Given the heavy foot-traffic, narrow pathways, and, where not so narrow, outdoor tables and chairs, unregulated Vending and Expressive Activity would obstruct pathways for residents and visitors and create obstacles to travel within the area. The obstruction and obstacles created by Vending and Expressive Activity is incompatible with the nature of the area and poses a risk of accidents and injury to pedestrians and other users of the area.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. As explained above, this area includes

shoreline park space and a promenade that are popular destinations for residents and are frequently used for recreational activities such as walking, running, and bicycling. Unregulated Vending and Expressive Activity in this Area would inhibit use and enjoyment of these opportunities.

- c) Interference with Scenic and Natural Character. As explained above, this area offers unobstructed views of downtown San Diego and San Diego Bay. Unregulated Vending and Expressive Activity in this area would obstruct these views and harm the scenic and natural character of the area.

6. Chula Vista Bayside Park

- a) Health, Safety, and Welfare. The Chula Vista Bayside Park is adjacent to the Chula Vista Harbor, a fishing pier and a recreational vehicle (RV) park. The park is frequently used for picnics and other enjoyment of natural resources and recreation purposes including running, walking, bicycle riding, and fishing. For access, the park provides a narrow trail from the parking lot and through the park. The trail is designed to accommodate pedestrians and bicycles, but lacks the space necessary to include Vending and Expressive Activity without

hindering safe movement throughout the park. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning. Finally, the total number of Vendors and Persons Engaged in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left, thrown, discarded or deposited on the street, sidewalks, pathways, gutters, storm drains, or upon public land or tenant leaseholds.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. As explained above, the park is frequently used for picnics and other enjoyment of natural resources and recreation purposes including running, walking, bicycle riding, and fishing. Unregulated Vending and Expressive Activity in the park would take up the space of and create obstacles to

these uses. In addition, noise associated with Vending and Expressive Activity must be regulated to ensure residents' and visitors' use and enjoyment of natural resources and recreational opportunities within this area.

- c) Interference with Scenic and Natural Character. The park provides unobstructed views of San Diego Bay, looking west to the Coronado Strand and the ocean. Unregulated Vending and Expressive Activity would block these views and harm the open and green natural character of the park.

7. Shelter Island Shoreline Park

- a) Health, Safety and Welfare. Shelter Island Shoreline Park consists primarily of long, narrow portions of grass that can accommodate small events that do not meet the size threshold for requiring a District special event permit. There are two sections of the park that are somewhat wider. Both are grassy areas located inside of traffic circles located at opposite end of Shelter Island and both are bordered by Shelter Island Drive. Neither has a crosswalk for pedestrian access between the sidewalk along the edge of Shelter Island. In the absence of crosswalks, unregulated Vending in

either of these locations would cause a safety risk to pedestrians attempting to cross the street to visit a Vendor.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park sidewalk is highly used by residents and hotel guests to enjoy the views of San Diego Bay, Point Loma, Coronado and the downtown San Diego skyline. The narrow nature of the sidewalks and the grass areas along the bayfront of the park make the entire length of the park unsuitable for unregulated Vending and Expressive Activity, which would impede the walkways and the views from the park.
- c) Interference with Scenic and Natural Character. This park is characterized by panoramic views of San Diego Bay and the areas of grass that lend themselves to the enjoyment of small group and singular activities of a typically quiet and passive to moderately active nature. Unregulated Vending and Expressive Activity would interfere with what is primarily a park of low-intensity, contemplative uses

8. Point Loma Marina Park

- a) Health, Safety and Welfare. Point Loma Marina Park is a small park on the District Tidelands that is used periodically for private events. The park has public sidewalks on either side and through its southern one-third that are used primarily to access the surrounding businesses and the walkway along north San Diego Bay. These sidewalks are under ten (10) feet in width and unable to safely accommodate Unregulated Vending and Expressive Activity without impeding pedestrians.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park can accommodate recreational activities that fit into a grass area of about 3,000 square feet in size, making it suitable for limited activity.
- c) Interference with Scenic and Natural Character. Given the small size of the park, the setup of any unregulated Vending and Expressive Activity would dominate the footprint and visual ambiance of the space

9. Harbor Island Park

- a) Health, Safety and Welfare. Harbor Island Park consists primarily of a narrow strip of grass and a six-foot-wide walkway that extend the length of the island, with one portion of grass on the western end of the island that widens to about 125 feet over a span of 300 feet. The narrow walkway accommodates a great many recreational walkers and runners including persons with strollers, and the two-way pedestrian traffic on the walkway often occupies a wider-than six (6) feet footprint. Visitors also bring chairs or sit on the benches along the length of the walkway to enjoy the view of San Diego Bay and the downtown skyline. This makes unregulated Vending and Expressive Activity in the narrow portion of the park unsafe to the public.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The wider area of the park is used for picnics and play for groups of various sizes and is the most popular site for weddings on the San Diego Bayfront. Given that the medium-to-large events as well as all weddings require the use of the entire wide grass area, unregulated Vending and

Expressive Activity interferes with the use of the park by visitors and participants in events.

- c) Interference with Scenic and Natural Character. Given the small size of the park, the setup of any unregulated Vending and Expressive Activity would interfere with the visual ambiance of the space.

10. Spanish Landing Park

- a) Health, Safety and Welfare. Spanish Landing Park is a linear space about three-quarters of a mile in length with several lawn areas of widths varying between 50 and 120 feet that are used for picnics and small group enjoyment of the park. The park is also amenable to the producers of certain major events who utilize the individual lawn areas to place stages and attractions. A serpentine walkway of about eight (8) feet in width and extends through the length of the park, connecting the Cancer Survivor Park artwork and lawn on the east end of the park to the playground and small beach on the west end and proceeding beneath Harbor Drive to the north side of the street. Unregulated Vending and Expressive Activity in the park would impede the walkway.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. Events and play on the playground, beach and lawns of the park would be inhibited by unregulated Vending and Expressive Activity that inhabits space on the lawn areas.
- c) Interference with Scenic and Natural Character. The Cancer Survivors Park area on the east end of Spanish Landing Park is intended for contemplative uses and unregulated Vending and Expressive Activity would be out of keeping with the character of this portion of the park. Additionally unregulated Vending and Expressive Activity would upset the generally quiet bayside ambiance of the overall park area.

11. Lane Field Park

- a) Health, Safety and Welfare. Lane Field Park is immediately adjacent to three hotel leaseholds on the downtown San Diego waterfront and is less than one half-acre in size. The surrounding hotels use the space – which consists of about 60% grass and 40% hardscape – for catered events and a weekly street food market with a picnic atmosphere. The small size of the park would make unregulated Vending and

Expressive Activity potentially a safety hazards to the use of the space.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. Events and play in this somewhat small park can be inhibited by unregulated Vending and Expressive Activity.
- c) Interference with Scenic and Natural Character. Lane Field Park contains items that pay tribute to the baseball history of the park's location, including a diamond-shaped hardscape area and a home plate. Unregulated Vending and Expressive Activity can disturb the baseball theme and character of the park with visual and sound distractions.

12. Broadway Pier

- a) Health, Safety and Welfare. Broadway Pier is used for cruise ship calls, a variety of special events, and public seating to view San Diego Bay. It is of relatively small width and includes lanes for emergency vehicles that may not be impeded. Unregulated Vending and Expressive Activity will present a risk to critical access to the pier and the Port Pavilion (terminal and event facility) located on the pier by emergency

responders, Maritime Operations staff and custodial personnel.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The events that use the pier exterior, as well as public enjoyment of the seating on the forecourt (Harbor Drive end of the pier) and view court (San Diego Bay end of the pier), can be impeded or disturbed by unregulated Vending and Expressive Activity.
- c) Interference with Scenic and Natural Character. Unregulated Vending and Expressive Activity can obstruct and distract the enjoyment of the panoramic views of San Diego Bay and the downtown San Diego North Embarcadero region offered on Broadway Pier.

13. Broadway Landing

- a) Health, Safety and Welfare Broadway Landing accommodates substantial traffic from pedestrians traversing the downtown North Embarcadero Promenade that makes up the west border of the park. The park contains garden areas with benches for resting and viewing the Promenade activity. The park surrounds leaseholds containing al fresco dining,

information windows and harbor tour ticket concessions, and a restroom building adjacent to the Promenade, making the park a gathering place for pedestrians stopping and/or queuing to visit these facilities. Unregulated Vending and Expressive Activity can result in congestion that spills over onto the Promenade and presents a public safety hazard.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The garden areas within Broadway Landing contain shade trees and landscaping and are intended as a respite for persons walking the Promenade or waiting for their boarding time on harbor tours or the water taxi at the adjacent docks. Unregulated Vending and Expressive Activity can disturb the respite of the persons enjoying the gardens.
- c) Interference with Scenic and Natural Character. Unregulated Vending and Expressive Activity can interfere with the view and character of the natural scenery in the form of the trees and gardens that are a vital and prominent part of the park.

14. Ruocco Park

- a) Health, Safety and Welfare. As one of a small number of grass expanses in downtown San Diego, the turf area in the center of Ruocco Park is used daily for pick-up soccer, frisbee throwing and other informal sporting activity. Unregulated Vending and Expressive Activity, including the use of tables, displays, chairs, umbrellas, pushcarts, and other equipment, can present obstructions to this activity, compromising the safety of those participating and must be regulated. Furthermore, Vendors engaged in the sale of food must be regulated to protect the health and safety of the general public in accordance with the requirements of the San Diego County Health Department to ensure compliance with sanitation, food preparation, and food handling laws to protect against food contamination, poor hygienic practices, and food poisoning. Finally, the total number of Vendors and Persons Engaged in Expressive Activity must be limited to accommodate pedestrian access and to prevent hazardous or unsanitary conditions and to ensure that trash and debris do not become a pollutant by being left, thrown, discarded or deposited on the

streets, sidewalks, pathways, gutters, storm drains, or upon public lands or tenant leaseholds.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The hardscape areas surrounding the center turf contain benches and small landscaped gardens with young trees. Unregulated Vending and Expressive Activity can interfere with the enjoyment of these landscaped areas and, where benches face San Diego Bay, the views of Tuna Harbor and beyond. In addition, noise associated with Vending and Expressive Activity must be regulated to ensure resident' and visitors' use and enjoyment of natural resources and recreational opportunities within this area.
- c) Interference with Scenic and Natural Character. While the park is the venue for a number of commercial events on specific days, its day-to-day intended purpose as specified by the funding entity is for informal play and contemplative uses. Unregulated Vending and Expressive Activity can interfere with the enjoyment of the park's serenity-inducing features that include its gardens, benches and artistic plazas.

15. South Embarcadero Promenade

- a) Health, Safety and Welfare. The South Embarcadero Promenade is a very busy waterside thoroughfare for pedestrians and bicycles, and other non-motorized mobility devices which frequently use the portion of the promenade from southeast corner of Seaport Village to the northwest side of Tenth Avenue Marine Terminal to ride along the waterfront. Unregulated Vending and Expressive Activity presents a potential obstruction and accompanying safety hazard on this bustling walkway.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The South Embarcadero Promenade is heavily used in the morning and early evening for (informal and organized) runs, walks and cycling activity. Unregulated Vending and Expressive Activity can interfere with this recreational use of the Promenade.
- c) Interference with Scenic and Natural Character. Large portions of the South Embarcadero Promenade provide sweeping views of San Diego Bay, parks, yacht and boat marinas, a maritime cargo terminal and Coronado.

Unregulated Vending, along with obstructing pedestrian and bicycle and non-motorized mobility device traffic, can interfere with the visual lines to the numerous sights throughout the length of this public pedestrian thoroughfare.

16. Fifth Avenue Landing Park

- a) Health, Safety and Welfare. Fifth Avenue Landing Park is small (under one-half acre) in size, making Unregulated Vending and Expressive Activity a potential source of trip hazards and obstructions for persons engaging in active recreation or otherwise traversing its grounds.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park's small size (under one-half acre) could not support unregulated Vending and Expressive Activity concurrent with public recreational use.
- c) Interference with Scenic and Natural Character. The park provides compelling views of superyachts in the water area at the adjacent leasehold and the bay beyond. Unregulated Vending and Expressive Activity would visually interfere with these views.

17. San Diego Bayfront Park

- a) Health, Safety and Welfare. San Diego Bayfront Park, over four acres in size, serves as one of the few large expanses of recreational space in the downtown core and is used heavily by persons engaging in active recreational pursuits that require considerable space, such as ball and frisbee-throwing. Unregulated Vending and Expressive Activity could result in safety hazards to persons running in the park with their attention on the game they are playing and not on potential obstructions.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park's perimeter space is a generally quiet place where conventioners, local workers and the general public can give their senses respite from the noise and bustle of downtown. Unregulated Vending and Expressive Activity could cause the park's peaceful ambiance to be negatively impacted by noise.

- c) Interference with Scenic and Natural Character. The park contains undulations atop which the public enjoys sedentary pursuits such as sunbathing, reading and enjoying the views of Fifth Avenue Landing, the Tenth Avenue Marine Terminal and San Diego Bay. Unregulated Vending and Expressive Activity would visually interfere with these views.

18. Cesar Chavez Park

- a) Health, Safety and Welfare. The majority of Cesar Chavez Park consists of a heavily used soccer field and sideline area for warming up/in-game practice. Unregulated Vending and Expressive Activity could compromise the safe use of the field and sideline by the youth whose practices and games are held there.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park is a popular place and one of the few points of access to San Diego Bay for the nearby Barrio Logan community who use the park's playground, picnic areas and pier for gatherings and celebrations of all sizes. Unregulated Vending and Expressive Activity could interfere with the public's enjoyment of the park for these purposes.

- c) Interference with Scenic and Natural Character. The park and pier offer panoramic views of San Diego Bay as well as a rare green space among large expanses of maritime and industrial facilities. Unregulated Vending and Expressive Activity could block view corridors to the bay as well as negatively impact the public and natural character of the park.

19. Pepper Park

- a) Health, Safety and Welfare. Pepper Park is the location of one of two public boat launch ramps and one of two public fishing piers in south San Diego Bay and consequently attracts substantial vehicle and vehicle-with-boat-trailer traffic through the park's parking lot, compelling vendors to attempt to operate there. Unregulated Vending and Expressive Activity in this high-traffic area traversed by oversize and encumbered vehicles would compromise the safety of the vendors, customers/pedestrians, drivers and boat operators.
- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park is a popular place and one of the few

points of access to San Diego Bay for the nearby underserved communities of National City, whose citizens use the park's playground and picnic areas for gatherings and celebrations of all sizes. Unregulated Vending and Expressive Activity could interfere with the public's enjoyment of the park for these purposes.

- c) Interference with Scenic and Natural Character. The park offers views of San Diego Bay as well as a rare recreational space located between a large maritime industrial facility and an environmentally protected wetlands area. Unregulated Vending and Expressive Activity could negatively impact the open, natural character of the park.

20. Chula Vista Bayfront Park

- a) Health, Safety and Welfare. Chula Vista Bayfront Park is the location of one of two public boat launch ramps in south San Diego Bay and consequently attracts substantial vehicle and vehicle-with-boat-trailer traffic through the park's parking lot, making it a potential attractive area for vendors. Unregulated Vending and Expressive Activity in this high-traffic area traversed by oversize and encumbered vehicles would

compromise the safety of the vendors, customers/pedestrians, drivers and boat operators.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The green space of the park is surrounded on three sides by San Diego Bay and the marinas on the Chula Vista bayfront, with mature trees for restful pursuits and a small open space for play. Unregulated Vending and Expressive Activity could inhibit or disturb this enjoyment of the natural resources and recreational space in the park.
- c) Interference with Scenic and Natural Character. The park offers views of the South San Diego Bay Wildlife Refuge including the resident and migratory birds that are visible there, as well as the viewing of the sailboats and other recreational watercraft traversing the marinas and launch ramp to and from the bay. Unregulated Vending and Expressive Activity could impede the enjoyment of the scenic character of the park.

21. Chula Vista Marina View Park

- a) Health, Safety and Welfare. Chula Vista Marina View Park is a primarily linear space made up of two sections. The

easternmost section is narrow and linear in shape with an approximately six-foot-wide sidewalk immediately adjacent to Marina Parkway. Unregulated Vending and Expressive Activity could present safety hazards to persons using the narrow park section or sidewalk.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The westernmost section of the park is frequented with small events that use inflatable jumps and outdoor games that occupy large footprints and include children playing. Unregulated Vending and Expressive Activity could interfere with the enjoyment of these recreational activities.
- c) Interference with Scenic and Natural Character. The south side of the park is directly adjacent to a wetlands preserve with a substantial bird presence. Unregulated Vending and Expressive Activity could interfere with this scenic aspect of the park.

22. Portwood Pier Plaza

- a) Health, Safety and Welfare. Over one-half of Portwood Pier Plaza is hardscape that is heavily used and enjoyed by the

riders of bicycles, scooters and skateboards. Unregulated Vending and Expressive Activity could compromise the safety of these individuals traversing the park.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The Imperial Beach Pier is a part of the park. As the only ocean pier in the southernmost portion of San Diego County, the pier frequently has many persons fishing, walking the pier for exercise and enjoying being on the Pacific Ocean. Unregulated Vending and Expressive Activity could interfere with this enjoyment of recreational opportunities.
- c) Interference with Scenic and Natural Character. The park and pier offer panoramic views of the Pacific Ocean and the park entrance plaza includes *Surfhenge*, a set of surfboard-themed art works that showcase the surfing heritage of Imperial Beach. Unregulated Vending and Expressive Activity can interfere with the enjoyment of this scenery in the park.

23. Dunes Park

- a) Health, Safety and Welfare. Dunes Park provides quiet locations for picnickers along with open space for play adjacent to Imperial Beach. The secluded nature of sections

of the park includes obstructions to the interior park sightlines to public safety personnel. Unregulated Vending and Expressive Activity present potential hazards to public safety in that detection of any violations of law or public endangerment on the part of vendors and Persons Engages in Expressive Activity is difficult.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The shaded areas of mature trees and the open spaces of Dunes Park are each relatively small, and Unregulated Vending and Expressive Activity could interfere with the use of these areas for their intended purposes.
- c) Interference with Scenic and Natural Character. Dunes Park offers a variety of landscape features along with views of sand dunes and the Pacific Ocean throughout the western border of the park. Unregulated Vending and Expressive Activity can negatively impact the views of all of these scenic and natural features.

24. Grand Caribe Shoreline Park

- a) Health, Safety and Welfare. Grand Caribe Shoreline Park has no public restrooms and a small amount of street parking that

causes some individuals to park illegally on the traffic circle at the park entrance. Unregulated Vending and Expressive Activity can result in public sanitation being further compromised in the absence of restrooms; and in additional vehicles parked in the traffic circle and impeding the passage of emergency vehicles.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. The park is planted primarily with native vegetation and has only a small open portion for play, making the most active use of the park the launching of kayaks and standup paddle boards from the stretch of beach along the park's east side. Given the natural state of the park, unregulated Vending and Expressive Activity could interfere with the enjoyment of the park's natural quietude and ambiance.
- c) Interference with Scenic and Natural Character. The eastern side of the park faces San Diego Bay with panoramic views, and a walking path through the park's native vegetation traverses the entire length of the park. Unregulated Vending

and Expressive Activity could negatively impact the enjoyment of the views and natural character of the park.

25. North Embarcadero Visionary Plan (NEVP)

- a) Health, Safety, and Welfare. The North Embarcadero Visionary Plan (NEVP) is a planned project of the District with phasing that will require areas of the North Embarcadero on North Harbor Drive between G Street to the south and Grape Street to the north, to be closed off for use by the public as well as Person Engaged in Expressive Activity and Vendors for potentially extended periods of time. As such, areas under construction shall prohibit any outside activity for public safety reasons. As the various phases of the NEVP are completed, the District intends to allow Vending and Expressive Activity pursuant to this section in areas that are open for public use.

26. Sweetwater Park

- a) Health, Safety and Welfare. Sweetwater Park is a passive park that includes meadows and specialty gardens, mounded grasslands, various seating and picnic areas, pedestrian and bicycle paths, and overlooks for bayfront viewing. Based on the Chula Vista Bayfront Master Plan and the existing certified Port Master Plan, the park has been planned, designed, and built to complement the adjacent

Sweetwater Marsh National Wildlife Refuge. Athletic fields, unattended food vending, amplified sound equipment, and issuance of park use permits for group activities are expressly prohibited because of the park's proximity to wildlife habitat. Unregulated vending and expressive activity conflicts with the intended uses of the park and could adversely affect the health, safety, and welfare of people who seek to experience its natural setting and engage in passive activities.

- b) Use and Enjoyment of Natural Resources and Recreational Opportunities. As explained above, Sweetwater Park has been planned, designed and built as a passive park to complement the natural wildlife at the Sweetwater Marsh National Wildlife Refuge, which is adjacent to the park. Unregulated commercial vending or expressive activity would conflict with people's use enjoyment of the natural resources by introducing commercial activity in the area through the sale commercial goods, allowing the acceptance of donations or distribution of non-commercial information, and/or allowing performances or activities characterized as expressive activity.

c) Interference with Scenic and Natural Character. Sweetwater Park is a 21-acre park that includes meadows, specialty gardens, mounded grasslands, picnic areas, and overlooks for bayfront viewing. Vending and Expressive Activity, as well as accompanying equipment, including tables, displays, chairs, umbrellas, musical instruments, amplifiers, and pushcarts, can obstruct scenic views and interfere with the natural character of the area.

(c) Commercial Vending and Expressive Activity Allowed Only in Allotted Spaces

1. To address the findings and purposes set forth in this Section, the District has created reasonable time, place, and manner restrictions on Commercial Vending and Expressive Activity to ensure the safety of Vendors and Persons Engaged in Expressive Activity, customers and their audience, and the general public. To ensure safe use of District parks, the District has divided available space into ten (10) areas, known as Designated Areas, which are depicted at the end of this Section. Each of these Designated Areas is divided into Allotted Spaces, which may be used for Commercial Vending and Expressive Activity, as further regulated in this Section.
2. Commercial Vending and Expressive Activity in any of the parks or public spaces listed in this Section may only be done in an Allotted

Space, and, further, only in accordance with the time, place and manner restrictions in this Code Section. Commercial Vending and Expressive Activity is not permitted outside of an Allotted Space.

3. Space Availability. Allotted Spaces are available for Commercial Vending pursuant to Temporary Commercial Use Permit and all applicable regulations and procedures as further detailed in this Section, including reasonable time, place, and manner restrictions, as well as any additional terms and conditions in a Temporary Commercial Use Permit. Allotted Spaces are available for Expressive Activity on a first come first serve basis, subject to the reasonable time, place and manner restrictions, detailed in this Section.
4. Time Restrictions. Commercial Vending shall only be allowed between sunrise and sunset. No person shall set-up, take down, block, or attempt to reserve any area designated for Commercial Vending after sunset or before sunrise. Expressive Activity shall be permitted during park hours.
5. Noise Restrictions. Noise associated with Commercial Vending and Expressive Activity shall not exceed 75 LAeq 3-minute average, with a maximum of 85 dBA when measures at minimum of ten (10) feet in any direction from the outside edge of an Allotted Space. The noise limitation includes but is not limited to sounds associated with

musical instruments, amplified musical instruments, megaphones, mechanical equipment, generators, and/or any other pieces of equipment or device or activity associated with Commercial Vending or Expressive Activity. Sound levels shall be measured using an integrating sound level meter Class II and/or an equivalent device as specified in the District's Park and Recreation Administrative Procedures for Vending and Expressive Activity.

6. Special Events. In each of the parks and public spaces listed in this Section, Commercial Vending and Expressive Activity may be permitted outside of an Allotted Space only in conjunction with an authorized special event subject to the appropriate District-Issued permit which may include terms and restrictions that differ from this Code Section

- (d) Procedures and Rules Governing the Use of Allotted Spaces. In an effort to ensure health, safety, and general welfare standards are maintained, and to promote the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of activity that would interfere with the scenic and natural character of the parks, all activities listed herein shall be limited to an Allotted Space authorized for Commercial Vending or Expressive Activity. The following procedures and rules govern the use of Allotted Spaces. Additional program guidance, processing requirements, and restrictions pertaining to use of the Allotted

Spaces may be found in the terms and conditions in a Temporary Commercial Use Permit and/or the Park and Recreation Administrative Procedures for Vending and Expressive Activity.

1. Temporary Commercial Use Permit. In an effort to ensure health, safety, and general welfare standards are maintained, and to promote the public's use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would interfere with the scenic and natural character of the parks, any person engaged in Commercial Vending shall obtain a Temporary Commercial Use Permit from the District Parks & Recreation department in accordance with the District's Administrative Procedures for Vending and Expressive Activity, and the minimum requirements listed below. The Director of the District Parks and Recreation department or his/her designee, shall issue a Temporary Commercial Use Permit if an applicant satisfies all requirements listed immediately below and, in the District's, Administrative Procedures for Vending and Expressive Activity.
 - a) Completed application that includes the applicant's name, photo identification, address, telephone number, email address and business name, as well as names and a photo identification of all persons that will be engaging in

Commercial Vending on-site. The application shall identify all of the commercial items that the applicant will sell on-site.

- b) Business License (Business Tax Certificate) from the city in which the Vendor will be operating.
- c) Where applicable, any and all current and valid permits required by the San Diego County Department of Environmental Health and Quality, including a valid Mobile Food Facility Health Permit. Vendors are limited to the use of a Compact Mobile Food Operation to sell un-packaged food and/or pre-packaged food.
- d) Certificate of Insurance coverage naming “San Diego Unified Port District” as an additional insured for the duration of the permit with a minimum \$1,000,000 for personal and bodily injury per one person and one occurrence; and a minimum of \$2,000,000 coverage for property damage.
- e) Signed and dated terms and conditions for Temporary Commercial Use Permit, including without limitation, whereby the applicant agrees to the minimum use and occupancy requirements established by the District’s Parks & Recreation department and that failure to comply with the District’s Terms and Conditions may results in the suspension or revocation of the Temporary Commercial Use Permit.

2. Allotted Space Availability and Opportunity Drawing. Allotted Spaces designated for Expressive Activity are available on a first come first served basis. Allotted Spaces designated for Commercial Vending are available through the Temporary Commercial Use Permit application process and are valid for the period set forth thereon, which shall be approximately one (1) year, with the exception of the permits issued for the first permit cycle beginning May 1, 2023 will be extended two (2) months, so that it will end December 31, 2023. A single individual or entity may only receive one Temporary Commercial Use Permit for the use of one Allotted Space during any permit cycle. If the number of Commercial Vending applications exceeds the number of Allotted Spaces that are authorized for Commercial Vending within a Designated Area, the District shall conduct an opportunity drawing to select which applicants receive a permit. The District's opportunity drawing system is further explained in the District's Administrative Procedures for Vending and Expressive Activity.
3. Permitted Commercial Vending Activities in Designated Areas. Vending commercial merchandise is permitted in Designated Areas with a Temporary Commercial Use Permit. Commercial merchandise includes items that have more than a nominal or functional utility apart from their communicative and expressive purpose (i.e. items

that have functional utility and that are not primarily communicative in nature) Such items include but are not limited to the following: food, including water, and Food products, house wares including dishes or eating utensils, appliances, cosmetics, beauty supplies, oils, lotions and perfumes, incense, candles, handcrafts, jewelry, hats, visors, sunglasses, souvenirs, toys and stuffed animals.

4. Permitted Expressive Conduct Activities in Allotted Spaces. Activities that are permitted within Allotted Spaces without a Temporary Commercial Use Permit involves (1) the distribution of non-commercial information, (2) solicitation of funds, donations, subscriptions and/or signatures for a charity, religious organization, non-profit or government entity, and (3) the sale of or performing artwork, speeches, and/or performance that are inherently communicative in nature and have only nominal value or purpose apart from its communication. Such items include but are not limited to the following: newspapers, leaflets, pamphlets, bumper stickers, buttons, books, audio, video, compact disc, video discs, records, sculptures, paintings and photographs, including prints of paintings and photographs, political campaigning activity, including the distribution of literature, stickers, shirts, cups or other promotional material such as signs and campaign messages, and any other

similar item that is inherently communicative and has only nominal value or purpose apart from its communication

5. Specific Rules for Use of Allotted Spaces

- a) The Allotted Spaces will be assigned and/or made available as describes above. Their respective sizes and dimensions are set forth on a map attached to this Section and also available for inspection and copying at the Office of the District Clerk. The Allotted Spaces shall be made available for the permitted activities described in this Section.
- b) No Person shall Vend any item in an Allotted Space, except as expressly authorized herein or as expressly authorized in a Temporary Commercial Use Permit.
- c) A Person may only utilize one Allotted Space at any given time.
- d) The maximum number of persons allowed in an Allotted Space shall not exceed three (3). In no event shall the number of Persons occupying an Allotted Space exceed three (3).
- e) No Person shall place or allow anything in any Allotted Space to extend beyond the boundaries of the Allotted Space nor place anything adjacent to the Allotted Space nor obstruct or impede the access areas between Allotted Spaces.

- f) There shall be a buffer zone of at least two (2) feet between each Allotted Space to provide adequate room for any Person to Vend or Engage in Expressive Conduct within the Allotted Space
- g) No Person shall engage in Commercial Vending or Expressive Conduct in, or place or allow any item to extend into a designated emergency ingress or egress area.
- h) No person shall place or allow any item, except an umbrella with a stand, a sunshade, one easel or display board to exceed eight (8) feet above ground in any Allotted Space, or a table with a total surface area exceeding twenty-five (25) square feet, nor shall any Person cause or allow an Allotted Space to be enclosed on more than two sides. An umbrella or sunshade shall not exceed ten (10) feet above the ground.
- i) No Person shall purchase, sell, barter, or exchange any Allotted Space with another Person or reserve or “hold” an Allotted Space for another Person.
- j) Any umbrella used in connection with the activities authorized in the Allotted Space must be adequately secured on the ground with a diameter of no greater than eight (8) feet and shall not be inserted into the ground.

- k) Allotted Spaces must be kept clean and litter, debris, and any marking must be removed from the Allotted Space by the time the Person vacates the Allotted Space (sunset or earlier for Commercial Vending, and park closure or earlier for Expressive Activity).
- l) No open flames, combustible fuel or gasoline-fueled generators are allowed in any Allotted Space. Electric cords may not be connected outside the assigned space or to any District or private power source.
- m) Allotted Space in areas which may be subject to a District special event permit, park permit, or construction shall not be used by any Person for the duration of the permit or construction period, including time for the set-up and removal of event or construction equipment. Alternate areas will be designated nearby when possible. If no areas are available nearby the specified area of the special event, one of the other Designated Areas may be used if available.
- n) Each Commercial Vendor in an Allotted Space shall be limited to one (1) sign no larger than four (4) square feet.
- o) No Person shall Vend or engage in the sale or distribution of stolen or pirated wares.

- p) No Person shall Vend or engage in the sale or distribution of live animals. Persons that use live animals as part of Expressive Conduct or Commercial Vending shall provide the District with a Certificate of Insurance (COI) coverage naming “San Diego Unified Port District” as an additional insured with a minimum \$1,000,000 for personal and bodily injury, one person and one occurrence; and a minimum of \$2,000,000 coverage for property damage. Insurance coverage must be in force for the duration of the Expressive Activity. Any Person using live animals as part of Expressive Conduct or Commercial Vending must present evidence they have obtained the proper insurance requirements upon request.
- q) Any items or equipment that are left in an Allotted Space when the park is closed or are left unattended for two (2) or more hours when the park is open, shall be considered abandoned, and may be immediately removed to an alternate location within the park. Any items so removed will be tagged with identifying information, with notice provided that such items have been removed and the location where they are being stored. Items not claimed and retrieved within twenty-four (24)

hours of removal and posting of notice will be disposed of by the District. Each Commercial Vendor in an Allotted Space shall prominently display their valid 8.5" X 11" Temporary Commercial Use Permit issued by Port's Park & Recreation department so that it can be easily seen and provided to a District Community Service Officer or any other designated District Employee or authorized personnel acting on behalf of the District upon request.

- (e) Use of District Property for Commercial Vending or Expressive Activity Prohibited. No Person shall use or obstruct access to any District-owned, maintained or leased property or equipment, including but not limited to street furniture, rip-rap stones, benches, planters, trash receptacles, kiosks, pagodas or other structures or equipment installed on public property, for Commercial Vending or Expressive Activity, or display or anything whatsoever.

- (f) Enforcement and Penalties

- 1. Any violation of the provisions of this Section 8.05 shall be punishable as provided below.

- a) For the first violation, an administrative fine not exceeding two hundred fifty dollars (\$250).

- b) For a second violation within one year of the first violation, an administrative fine not exceeding five hundred dollars (\$500)
 - c) For any subsequent violation within one year of the first violation, an administrative fine not exceeding one thousand dollars (\$1,000)
- 2. A District Community Service Officer or any other designated District Employee or authorized personnel acting on behalf of the District may issue an administrative citation for violations of this Chapter and in accordance with Section No. 0.11 (i) 4 Administrative Citation Procedures of the San Diego Unified Port Code.
- 3. Ability-to-Pay Determination
 - a) Notice. When assessing an administrative fine pursuant to Subsection (f) 1, the District shall take into consideration the person's ability to pay the fine. The District shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.
 - b) Request. The person may request an ability-to-pay determination at adjudication or while the judgement remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

- c) Determination. If the person meets the criteria described in Government Code section 68632, subdivision (a) or (b), the District shall accept, in full satisfaction, twenty percent (20%) of the administrative fine imposed.
- 4. Appeal. Any person may appeal any of the penalties imposed under this subsection (f) or revocation of a Temporary Commercial Use Permit pursuant to this subsection (f) pursuant to the procedures listed in Section 0.11 (i) 9 Appeal of Administrative Citation of the San Diego Unified Port Code.
- 5. Failure to Pay. Any person failing to pay any applicable penalties Imposed pursuant to subsection (f)(1) shall have their Temporary Commercial Use Permit revoked and shall be ineligible to apply for or receive a Temporary Commercial Use Permit for the two (2) permitting cycles following the failure to pay.
- 6. Any person failing to comply with a lawful verbal order by a Peace Officer and/or authorized District staff may be subject to the provisions for Section No. 0.11 General Penalty of the San Diego Unified Port District Code
- (g) Severability. If any subsection, sentence or clause, phase or portion of this Section is for any reason held to be 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 Section.

(Enacted April 21, 1964 – Ordinance No. 118)

(Amended August 13, 1985 – Ordinance No. 1141)

(Amended November 21, 1989 – Ordinance No. 1341)

(Amended August 14, 2012 – Ordinance No. 2683)

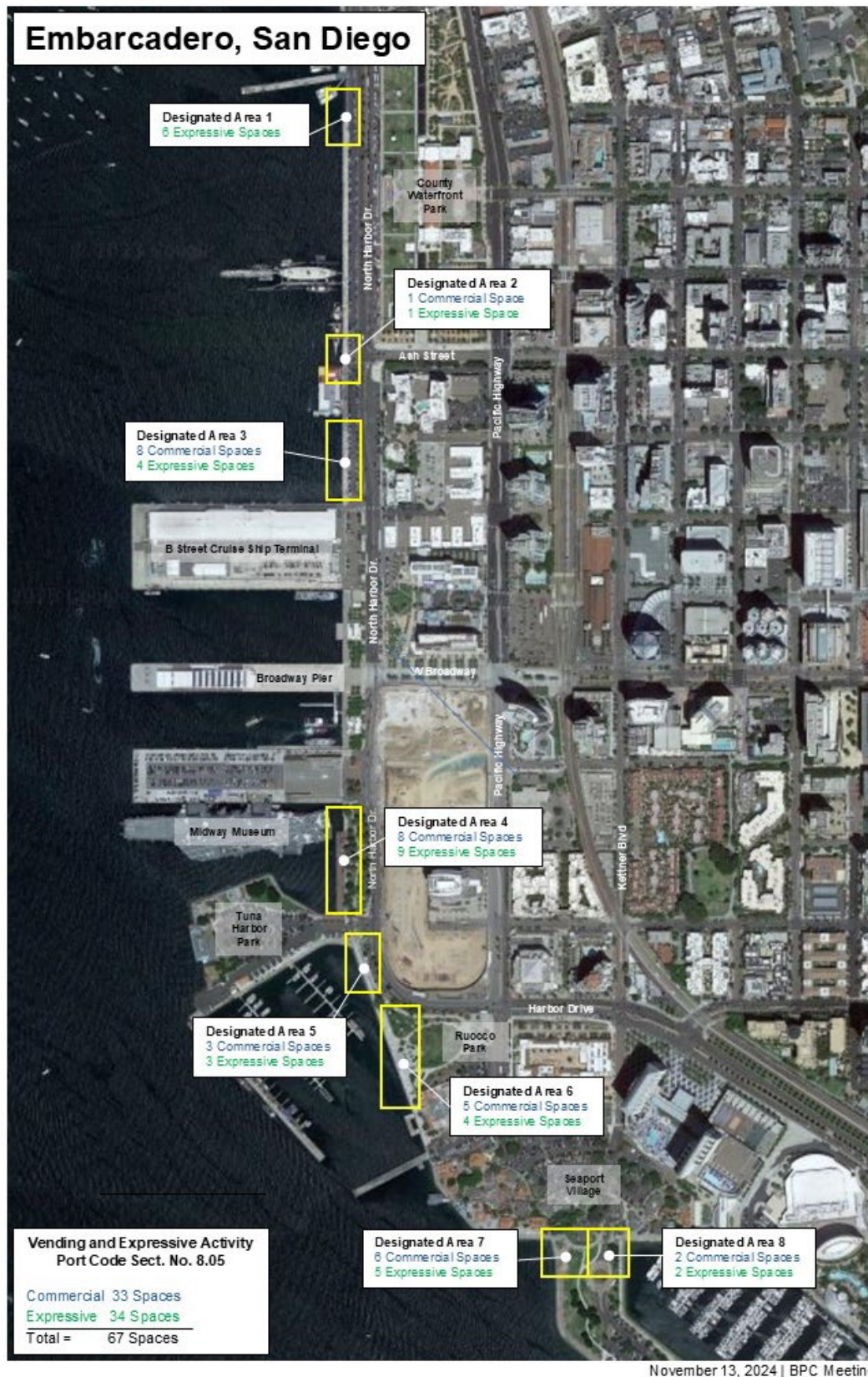
(Amended April 15, 2014 – Ordinance No. 2762)

(Amended December 10, 2019 – Ordinance No. 2963)

(Amended February 14, 2023 – Ordinance No. 3075)

(Amended November 14, 2023 – Ordinance No. 3110)

(Amended November 13, 2024 - Ordinance No. 3144)



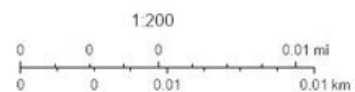
SDUPD 8.05: Designated Area 1



November 13, 2024 | BPC Meeting
Designated Spaces

Commercial
Expressive

1700 block of N. Harbor Drive
North Embarcadero, San Diego



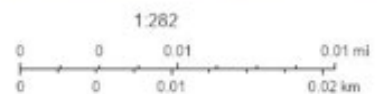
SDUPD 8.05: Designated Area 2



November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

N. Harbor Drive and Ash Street
North Embarcadero, San Diego



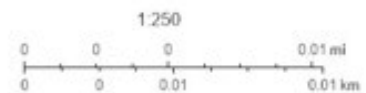
SDUPD 8.05: Designated Area 3



November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

1300 Block of N. Harbor Drive
North Embarcadero, San Diego



SDUPD 8.05: Designated Area 4

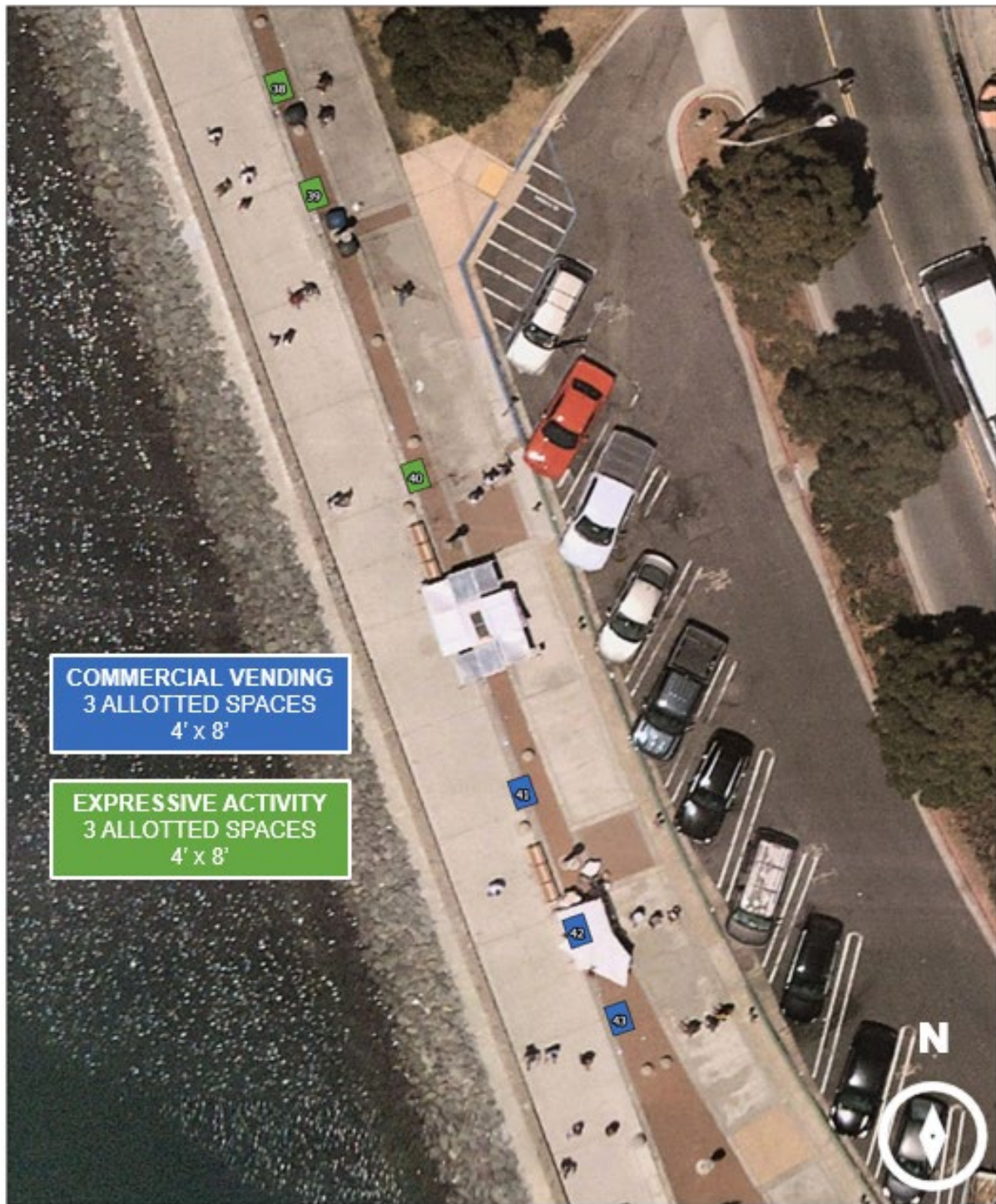


November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

**Corner of G Street and Harbor Drive
South Embarcadero, San Diego**

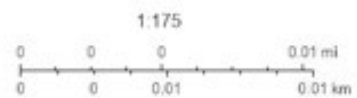
SDUPD 8.05: Designated Area 5



November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

750 Harbor Drive
South Embarcadero, San Diego



SDUPD 8.05: Designated Area 6



November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

Ruocco Park
South Embarcadero, San Diego

Article 8 – vending and Expressive Activity Regulated

SDUPD 8.05: Designated Area 7

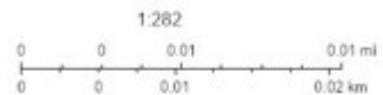


November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

831 W. Harbor Drive
South Embarcadero, San Diego

Article 8 – Vending and Expressive Activity Regulated



SDUPD 8.05: Designated Area 8

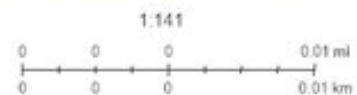


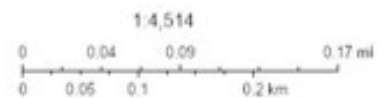
November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

821 W. Harbor Drive
South Embarcadero, San Diego

Article 8 – Vending and Expressive Activity Regulated





November 13, 2024 | BPC Meeting

SDUPD 8.05: Designated Area 9



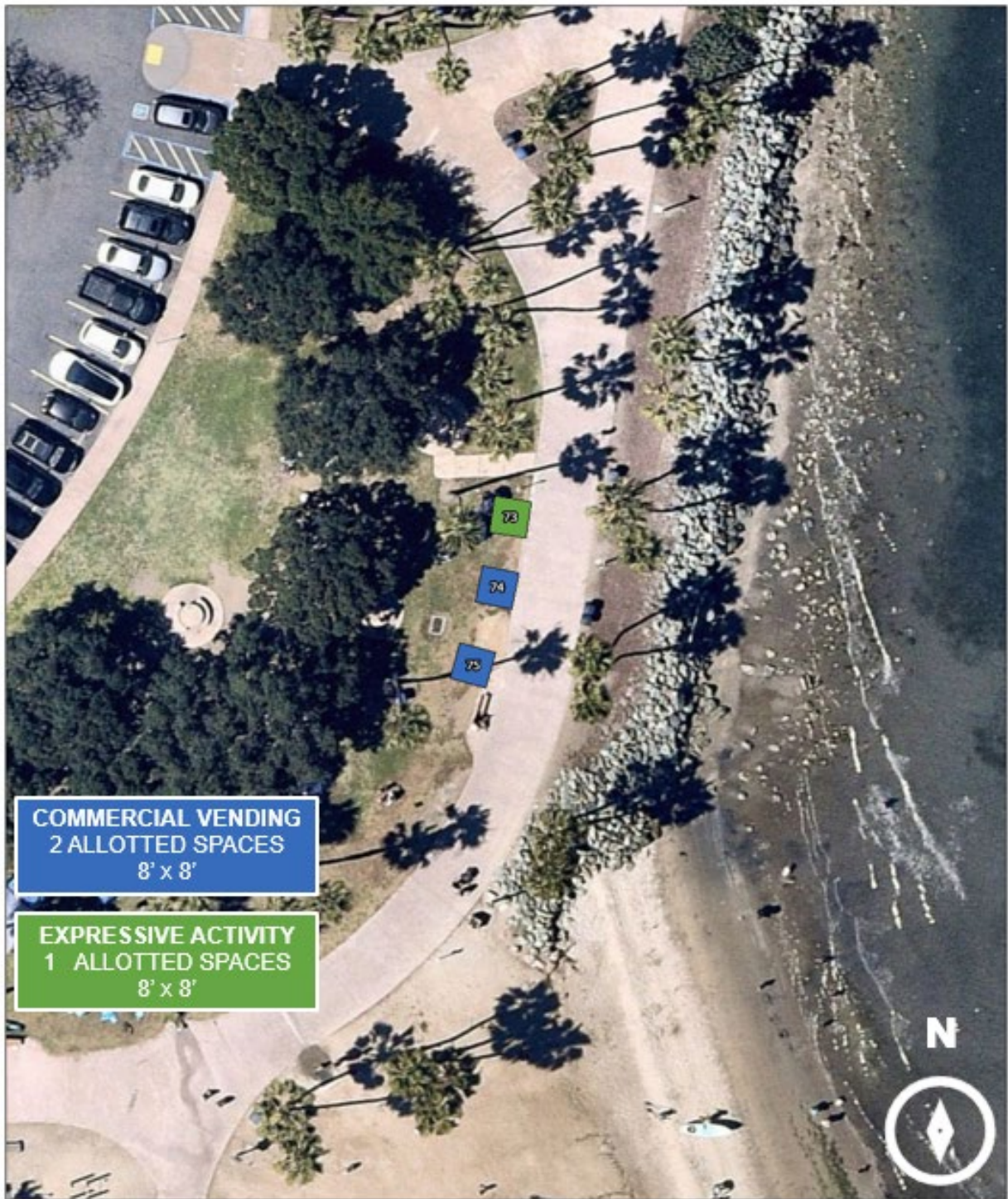
Bayside Park, Chula Vista



1:4,514
0 0.04 0.09 0.17 mi
0 0.05 0.1 0.2 km

November 13, 2024 | BPC Meeting

SDUPD 8.05: Designated Area 10



November 13, 2024 | BPC Meeting
Designated Spaces

- Commercial
- Expressive

Tideland Park, Coronado



SECTION NO. 8.06 – ALCOHOL REGULATED ON TIDELANDS

For purposes of this Section, the following terms shall be defined as indicated:

(a) Definitions

1. “Alcoholic Beverage” includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains One-Half (1/2) of One Per Cent (1%) or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
2. “Tidelands” – Those areas in the member cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego under the control and jurisdiction of the San Diego Unified Port District and not under lease to private parties. Tidelands shall include, without limitation, streets, parking lots, sidewalks, alleys, plazas, parks, piers, beaches, sea walls and open public lands.

(b) Unless the Executive Director or his authorized representative has issued a special event permit, or unless otherwise permitted, it shall be unlawful for any person or persons to consume any alcoholic beverage at any time upon any Tidelands.

(c) Unless the Executive Director or his authorized representative has issued a special event permit, or unless otherwise permitted, it shall be unlawful for any person or persons to possess any can, bottle or other receptacle

containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, at any time, upon any Tidelands.

- (d) The Executive Director or his authorized representative may designate from time to time certain public property and public right of way located on District Tidelands, as described in Subsections (b) and (c) above, to be used for alcohol consumption on a short-term or long-term basis; the use of said public property and public right of way for alcohol consumption shall only be allowed under permit from the District and the boundaries thereof shall be posted.

(Enacted October 5, 1999 – Ordinance No. 2068)

SECTION NO. 8.07 – REGULATION OF MOTORIZED MOBILITY DEVICES AND PEDICABS ON DISTRICT TIDELANDS**(a) Purpose**

The proliferation of motorized bicycles, motorized scooters, motorized skateboards, and other non-traditional motorized mobility devices has resulted in these devices being readily available within the District's jurisdiction. Motorized Mobility Devices can create public safety hazards when used in areas with pedestrian activity. The use of Pedicabs in pedestrian areas can also create public safety hazards. The purpose of this Section of the San Diego Unified Port District (SDUPD) Code is to protect the safety of pedestrians and other individuals on District tidelands by prohibiting the use of Motorized Mobility Devices and Motorized Pedicabs on pedestrian areas, including Sidewalks, Promenades, Multi-use Pathways, Nature Trails, Plazas, Public Parking Garages, Piers, and Parks, and to enact other regulations related to Motorized Mobility Devices and Pedicabs intended to protect public safety within the District's jurisdiction.

(b) Definitions

1. “Electric bicycle” or “e-bike” – As defined by California Vehicle Code Section 312.5, as may be amended from time to time.
2. “Electrically Motorized Board” - As defined by California Vehicle Code Section 313.5, as may be amended from time to time.
3. “Electric Personal Assistive Mobility Device” or “EPAMD” – As defined by California Vehicle Code Section 313, as may be amended from time to time.
4. “EPAMD Rental Business” – A Person who manages, owns, or operates a business that offers for rent one or more EPAMDs for guided tours.
5. “Executive Director” – Executive Director of the San Diego Unified Port District.
6. “Geofencing” – The creation of a virtual geographic boundary, defined by Global Positioning System (“GPS”), radio-frequency identification (“RFID”), or other technology, that enables a Shared Mobility Device Provider to regulate speed, issue notifications, and take other actions, when a Shared Mobility Device in its fleet enters or leaves an area.

7. “Member City” – The five (5) member cities of the District, which are: the cities of San Diego, Chula Vista, National City, Imperial Beach, and Coronado.
8. “Motorized Bicycle” – As defined by California Vehicle Code Section 406, as may be amended from time to time.
9. “Motorized Mobility Device” or “MMD” – A mobility device, such as an EPAMD, Electric Bicycle, Electrically Motorized Board, Motorized Scooter, Motorized Bicycle, skateboard, hoverboard, or similar device, that is motorized for the purpose of locomotion.
10. “Motorized Pedicab” – A Pedicab that is motorized for the purpose of locomotion, which motor provides assistance when the operator is pedaling or that can exclusively propel the Pedicab.
11. “Motorized Scooter” – As defined by California Vehicle Code Section 407.5, as may be amended from time to time.
12. “Multi-Use Pathway” – A pathway intended or suitable for more than one mode of travel (e.g., accommodating both pedestrian and bicycle traffic), such as walking, jogging, cycling, and wheelchair use.

13. “Nature Trail” – An unpaved pathway.
14. “Other Power-Driven Mobility Device” or “OPDMD” – As defined by the Americans with Disabilities Act and related regulations, as may be amended from time to time.
15. “Park” – An open and publicly accessible space intended primarily for recreation.
16. “Pedal-Only Pedicab” – A Pedicab that has no motor, electric device, battery, or other form of power and can only be pedaled by human power. Turning off or disabling the motor does not meet the requirement for a Pedal-Only Pedicab.
17. “Pedicab” – As defined by California Vehicle Code Section 467.5, as may be amended from time to time.
18. “Pedicab Placard/Decal” – A nontransferable authorization, affixed to the Pedicab by the District.
19. “Pedicab Operator” – Any person who operates a Pedicab within the District, including but not limited to (a) owners; (b) employees; and (c) individual contractors.

20. “Pedicab Operating Agreement” – An agreement between the Pedicab Operator and the District, that authorizes the use of a Pedicab on District Property.
21. “Pedicab Parking Zone” – A parking area designated for the specific purpose of Pedicabs waiting for, dropping off, or picking up passengers.
22. “Pedicab Routes” – Defined routes designated by the District where Pedicabs can operate on District property, subject to conformance with all the applicable rules and regulations. Routes include where Pedal-Only Pedicabs can operate off-street if the sidewalk width and/or pedestrian traffic allows. Routes include where both Motorized Pedicabs and Pedal-Only Pedicabs can operate on streets and parking lots within District property.
23. “Pier” – A fixed structure that extends over the water and is used as a landing place for vessels. A pier can also be used for other non-landing activities such as, but not limited to, recreational and commercial uses.
24. “Plaza” – An open space designed for public use defined by surrounding buildings or streets.
25. “Promenade” – A public pathway adjacent to the water.
26. “Seatbelt” – A safety strap or harness designed to hold a person securely in a seat.

- 27. “Public Parking Garage” – A structure or any part thereof, principally used for the parking of motor vehicles and is available to the public and may be above or below finished grade.
 - 28. “Shared Mobility Device” or “SMD” – An MMD for shared use or transportation in exchange for financial compensation via the use of a digital application or other electronic or digital platform.
 - 29. “Shared Mobility Device Provider” or “SMD Provider” – A person that, in exchange for financial compensation, offers, makes available, or otherwise provides an SMD to another person via the use of a digital application or other electronic or digital platform.
 - 30. “Sidewalk” – A dedicated pathway providing pedestrian connectivity adjacent and parallel to a roadway.
 - 31. “Stage” – To park or otherwise place an MMD or Pedicab in a location to offer for public use or rides.
 - 32. “Wheelchair” – As defined by the Americans with Disabilities Act and related regulations, as may be amended from time to time.
- (c) Regulations and Enforcement of Pedicabs and Motorized Mobility Devices

1. No person shall ride or otherwise operate or cause to be operated a Motorized Pedicab or an MMD in or on any Sidewalk, Promenade, multi-Use Pathway, Nature Trail, Plaza, Public Parking Garage, Pier, or Park.
 - a) Exception: The prohibition in SDUPD Code Section 8.07 (c)(1) do not apply to the use of Wheelchairs, OPDMDs, or other Mobility Devices as defined by the Americans with Disabilities Act (ADA) by individuals with mobility disabilities.
 - b) Exception: The prohibition in SDUPD Code Section 8.07 (c)(1) do not apply to the use of an EPAMD as part of an organized guided tour by an EPAMD Rental Business that has an active permit to operate in the District's jurisdiction issued by a Member City.
 - c) Additional exceptions may be approved by the Executive Director or the Executive Director's designee from time to time, within the Executive Director's sole discretion.
2. No person shall Stage or abandon or cause to be Staged or abandoned a Pedicab or an MMD in or on a Sidewalk, Promenade, Multi-Use Pathway, Nature Trail, Plaza, Public Parking Garage, Pier, or Park, or

3. in any area in such a way as to restrict the free movement of vehicles or pedestrians or otherwise create a safety hazard. No person shall operate or cause to be operated a Pedicab in an area outside of the District authorized Pedicab Routes.
4. No person shall operate or cause to be operated a Pedicab or an MMD in any manner that impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law.
5. All persons operating a Pedicab or an MMD shall yield to pedestrians.
6. All persons operating a Pedicab or an MMD shall drive safely and at a speed that will not endanger pedestrians.
7. No person shall operate a Pedicab or an MMD at a speed that is unsafe based on current conditions.
8. No person shall operate or cause to be operated a Pedicab or an MMD without equipped brakes that will enable a braked wheel to skid on dry, level, and clean pavement.
9. All Pedicabs shall have the following dedicated and properly working safety equipment: seatbelts, hydraulic or mechanical disc brakes, headlights and tail-lights, turn signals (visible from the front and rear), and spoke reflectors placed on each wheel.

10. No person shall operate a Pedicab or an MMD while intoxicated by any substance or operate a Pedicab or an MMD while ingesting any alcoholic beverage or intoxicating substance.
11. No person shall operate or cause to be operated a Pedicab or an MMD recklessly or in willful or wanton disregard for the safety or property of others.
12. No person under the age of eighteen (18) years old shall operate a Pedicab.
13. No person under the age of eighteen (18) years old shall operate an MMD without a helmet.
14. No person under the age of sixteen (16) years old shall operate an MMD.
15. No person shall operate an MMD with passengers unless the MMD is designed by its manufacturer for use by multiple people simultaneously, and all passengers shall only ride in portions of the MMD designed for use by passengers.
16. Pedicabs shall only be operated by one individual, and the total number of passengers shall be limited by the total number of seatbelts provided in the Pedicab passenger seating area.

17. No person shall operate a Pedicab or an MMD while carrying any package, bag, or bundle that prevents the use of at least one hand to steer.
18. No person shall operate or cause to be operated a Pedicab without displaying a valid Pedicab Placard/Decal affixed to that Pedicab by the District.
19. No person shall use any form of sound amplification while operating a Pedicab.
20. No person shall operate or cause to be operated a Pedicab without posting a clearly visible and unobstructed fare schedule on the interior and exterior of the Pedicab that meets the size, font, color, and format requirements of the City of San Diego Municipal Code and the District's Pedicab Operating Agreement requirements. The fare schedule shall list all applicable fares, including minimum charges, per-person charges, by-distance fares, tour fares, and any other fare or fee charged in connection with the use of the Pedicab by customers. Each fare or fee must be listed on a separate line.
21. No person shall charge a Pedicab passenger(s) a fare greater than displayed on the posted fare schedule.

22. No person shall operate a Pedicab with one or more passengers unless the full fare for the trip has been agreed upon by the passenger(s) prior to the trip departure.
23. No person shall solicit or pick up one or more Pedicab passengers outside of a Pedicab Parking Zone.
24. No person shall leave a Pedicab unattended in a Pedicab Parking Zone.
25. No person shall pick up or drop off one or more Pedicab passengers in a location where it is unsafe to do so due to traffic or other conditions.
26. No Pedicab shall park or Stage a Pedicab in a metered or pay station parking space, ADA parking space, or at any red, yellow, or white marked areas that are not otherwise designated for Pedicabs.
27. No person shall operate a Pedicab, SMD, EPAMD, MMD within an area that has been designated by the District as temporarily restricted due to a special event, construction, emergency response, or other activity and where signs have been posted to that effect.
28. Beginning February 15, 2024, no person shall operate or cause to be operated a Pedicab without a valid Pedicab Operating Agreement

issued by the District.

29. Beginning February 15, 2024, no person shall operate or cause to be operated a Pedicab in violation of the applicable Pedicab Operating Agreement.
30. Pedicab Operators who employ or contract with other persons to operate Pedicabs within the District's jurisdiction must supervise their employees and/or contractors to ensure compliance with the District's Code, the applicable Pedicab Operating Agreement, and other applicable laws, rules, regulations, and other requirements.
31. City of San Diego Operating Permit Required for Pedicabs: It shall be unlawful for any person to operate a Pedicab within those portions of the District that share jurisdictional boundaries with the City of San Diego, without first having obtained a Pedicab Operating Permit from the City of San Diego, pursuant to the San Diego Municipal Code, as may be amended from time to time. All persons with a Pedicab Operating Permit shall operate Pedicabs in strict conformance to, and in compliance with, their respective City of San Diego Pedicab Operating Permit, as may be updated and revised from time to time. This conformance and compliance shall include all requirements for passenger safety, speed, lighting, and noise restrictions.

32. City of San Diego Operating Contract required for SMD Providers (SMD Operating Contract): Any SMD Provider operating within those portions of the District that share jurisdictional boundaries with the City of San Diego shall obtain and strictly comply with the SMD Operating Contract, pursuant to the San Diego Municipal Code, as may be amended from time to time.
33. SMD Providers must establish Geofencing of SMDs to prohibit riding, operating, parking, staging, or abandoning of SMDs, in any manner that violates this Section.
34. City of San Diego Operating Permit required for EPAMD Tour Providers: It shall be unlawful for any person to provide tours within those portions of the District that share jurisdictional boundaries with the City of San Diego, without first having obtained an EPAMD Rental Business Permit from the City of San Diego, pursuant to San Diego Municipal Code, as may be amended from time to time.
35. City of Chula Vista Permit required for SMD Providers: Any SMD Provider operating within those portions of the District that share jurisdictional boundaries with the City of Chula Vista shall obtain and strictly comply with an SMD permit issued by the City of Chula Vista,

pursuant to Chula Vista Municipal Code, as may be amended from time to time.

36. Insurance Required:

- a) It shall be unlawful for any person to operate a Pedicab within the District unless at the time of such operation that person has a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(d), below.
- b) It shall be unlawful for any SMD Provider to Stage or cause to be Staged an SMD within the District, operate an SMD, or allow another person to operate an SMD within the District unless at the time of such staging and operation, the SMD Provider has in effect a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(e), below.
- c) It shall be unlawful for any EPAMD Rental Business to operate within the District unless at the time of such operation the EPAMD Rental Business has in effect a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(f), below.

- d) For any Pedicab Operator, said policy of insurance shall cover the District and its operations in the amount of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the Pedicab Operator.
- e) For any SMD Provider, said policy of insurance shall cover the District and operations in the amount of not less than Five Million Dollars (\$5,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the operator of an SMD Provider.
- f) For any EPAMD Rental Business, said policy of insurance shall cover the District and operations in the amount of not less than One Million Five Hundred Thousand Dollars (\$1,500,00.00) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or

persons whatsoever resulting directly or indirectly from any act or activities of the EPAMD Rental Business.

- g) Certificates of insurance in a form acceptable to the District evidencing the existence of the necessary insurance policies, and original endorsements naming the District as an additional insured, shall be provided to the District and kept on file with the District during the entire time the Pedicab Operator or SMD Provider or EPAMD Rental Business Permit or contract with the City of San Diego or with the District's other Member Cities, is in effect.

- 37. Compliance with All Laws: In addition to all requirements set forth in this SDUPD Code Section 8.07, all persons shall comply with all applicable local, state, and federal laws, rules, regulations, and other requirements pertaining to the operation of MMDs, SMDs, and Pedicabs, including but not limited to those of the SDUPD Code, and Member City, and the California Vehicle Code. In the event of conflict between the laws, rules, and regulations and other requirements of the District and any Member

City, the District's laws, rules, regulations, and all other requirements shall apply.

(d) Pedicab Impound

1. Pedicab Operators are subject to all applicable impound provisions of the California Vehicle Code. Pedicab Operators are subject to the same rights and responsibilities as a driver of a motor vehicle as they relate to impoundment.
2. Any peace officer, police officer, or parking enforcement officer engaged in traffic or parking enforcement may remove or impound a Pedicab under any of the following circumstances:
 - a) When the Pedicab Operator is issued a citation for a violation of District Code Sections 8.07(c)(15), (25), (26), or (28);
 - b) When the Pedicab Operator is arrested and taken into custody;
 - c) When the Pedicab Operator is physically incapacitated to the extent the Pedicab Operator is unable to safely operate the Pedicab; or
 - d) When a Pedicab is parked or left standing upon a street or sidewalk so as to obstruct the normal movement of vehicles or pedestrians or in a condition that creates a hazard.

3. An owner of a Pedicab removed pursuant to this Section shall be provided an opportunity for a post-storage hearing to determine the validity of the storage, in accordance with California Vehicle Code Section 22852. The impounding agency shall have the burden of establishing the validity of the removal.

(e) Penalties

Violations of this Section 8.07 may be punished in accordance with Article 0, Section 0.11 (General Penalty) of this SDUPD Code. The requirements and prohibitions in this Section 8.07 relating to Pedicabs shall apply equally to all Pedicab Operators. Any violation may be enforced against the Pedicab's owner and/or the Pedicab Operator. One or more violations of this SDUPD Code Section may result in a suspension or revocation of the applicable Pedicab Operating Agreement.

(f) Administrative Regulations

The Executive Director or the Executive Director's designee may promulgate and implement administrative regulations pertaining to the use and administration of MMDs, SMDs, and Pedicabs, including District issued Pedicab Placards/Decals and fare schedule requirements, Pedicab Routes and other routes, and the installation of signs and markings pertaining to the

regulations in this Section.

(g) Exception for Emergency Vehicles and Public Agency Vehicles

The provisions in this Section 8.07 do not apply to police, fire department, or any other emergency response or enforcement personnel while acting in response to an emergency or during routine patrols or enforcement, or those vehicles registered to any California public agency displaying a valid California DMV issued exempt plate, or any vehicle owned and operated by a public utility company while engaged in official repair or responsive activities.

(h) Invalidity

If any section, subsection, sentence, clause, phrase, or portion of this Section 8.07 is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Enacted – August 21, 2001 – Ordinance No. 2145)

(Amended – November 14, 2023 – Ordinance No. 3111)

SECTION NO. 8.08 – SMOKING PROHIBITED AT PARKS AND BEACHES**(a) Purpose**

The District's parks and beaches are intended for the use and enjoyment of all visitors, without the risk of health hazards. The California Environmental Protection Agency has found that environmental tobacco smoke, or secondhand smoke, is a toxic air contaminant and pollutant in outdoor environments. The health impacts of secondhand smoke include developmental, respiratory, carcinogenic, and cardiovascular effects. Therefore, in order to serve the public health, safety, and welfare, this Section prohibits the smoking of tobacco in public parks and beaches.

(b) Definitions

For purposes of this Section, the following terms shall be defined as follows:

1. "Smoking" – the lighting or carrying of a lighted pipe, cigar, cigarette, or other instrument used to burn tobacco.
2. "Public Park" – the same meaning as in District Code Section 8.02(a), excluding parking lots and the Broadway Pier.
3. "Public Beach" – any public beach or shoreline bordering the waterline that is open to the public for recreational purposes, including, but not limited to, Imperial Beach, and excluding adjacent parking lots.

(c) Smoking Prohibited

Smoking is prohibited on any Public Park or Public Beach.

(d) Disposal of Smoking Waste Prohibited

No person shall dispose of any cigarette, cigar, or tobacco, or any part of a cigarette or cigar, in any place where Smoking is prohibited under this Section, except in a designated waste disposal container.

(e) Signs

Signs that designate Non-Smoking areas established by this Section shall be posted.

(f) Federal or State Preemption

The provisions of this Section do not apply where Federal or State law regulates Smoking if the Federal or State law preempts local regulation or if the Federal or State law is more restrictive.

(g) Penalties for Violation of Section 8.08

1. Any person convicted of a violation of this Section is guilty of an infraction and shall be punished in accordance with Section 0.11 of the District Code.
2. Punishment under this Section shall not preclude punishment pursuant to any provision of law proscribing the act of littering.

Nothing in this Section shall preclude any person from seeking any other remedies, penalties, or procedures provided by law.

(Enacted December 5, 2006 – Ordinance No. 2430)

SECTION NO. 8.09 – OVERSIZE VEHICLES PARKING REGULATIONS ON TIDELANDS**(a) Purpose**

California Vehicle Code Section (CVC) 22507 permits the District to prohibit or restrict the stopping, parking, or standing of vehicles, including but not limited to vehicles that are Six (6) feet or more in height. Further, the San Diego Unified Port District Code (Including without limitation, Section 8.11) authorizes the designation of parking spaces on tidelands within its jurisdiction in San Diego, National City, Chula Vista, Coronado and Imperial Beach. The purpose of this Section of the San Diego Unified Port District Code is to define the descriptions of oversized vehicles and regulate accordingly, on all tidelands where posted.

(b) Definitions

Certain words and phrases used herein are defined as follows:

1. “Boat Trailer” – Trailer used to convey a boat which attaches to a vehicle for transport. And includes, but not limited to boars and/or boat trailers, including jet skis and/or jet ski trailers use to convey a boat or jet ski.
2. “Bus” – As Defined in the CVC Section 233, as may be amended from time to time.

3. “Camping Trailer” – As defined in the CVC Section 242, as may be amended from time to time.
4. “Fifth-Wheel Travel Trailer” – As defined in the CVC Section 324, as may be amended from time to time.
5. “House Car” – As defined in the CVC Section 362, as may be amended from time to time.
6. “Motor Home” – A motor vehicle designed to provide temporary living quarters, built as an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van and includes a motorhome manufactured by a licensed motorhome manufacturer.
7. “Oversize Vehicle” – a Bus, Camping Trailer, Fifth Wheel Travel Trailer, House Car, Motorhome, Recreational Vehicle, Slide-in trailer. Trailer, Trailer Bus, Van Camper, and/or Vehicle greater than Twenty (20) feet in length, **OR** Seven (7) feet in width, **OR** Seven and one-half (7 ½) feet in height. Measurements shall include extensions and/or attachments, with the exemption of side mirrors.
8. “Passenger Vehicle” – As defined in the CVC Section 465, as may be amended from time to time, or a bus, as defined in CVC section 233, as may be amended from time to time.
9. “Recreational Vehicle” – As Defined in the California Health & Safety Code Section 18010, as may be amended from time to time.
10. “Slide-in Camper” – As defined in the California Health & Safety Code Section 18012.4, as may be amended from time to time.

11. “Trailer” – As defined in the CVC Section 630, as may be amended from time to time.
12. “Trailer Bus” – As defined in the CVC Section 636, as may be amended from time to time.
13. “Van Camper” – A complete vehicle purchased from a recognized vehicle manufacturer and converted (usually by the installation of carpet, curtains, additional seating, etc.) for human habitation or camping purposes.

(c) Regulations On Oversized Vehicle Parking

1. Subject to the exceptions in subsections (c)(2) and (3), no person shall park or stand or permit to stand any Oversized Vehicle on tidelands where posted, including, but not limited to all streets, parking lots, parking garages and parks, except when spaces are designated specifically for such use.
2. Parking of an Oversize Vehicle is permissible when being actively utilized for a public construction or maintenance project, or private project of a District tenant or permittee on tidelands, including approved special events, provided such vehicle and/or equipment is properly marked with signs and/or barricades and is parked immediately adjoining, adjacent or abutting the leased premise or permitted properly, project or special event.
3. This Section 8.09 shall not apply to a commercial truck (as established by a current registration with the State Department of

Motor Vehicles) and including, but not limited to, semi-trucks, if one or more of the following apply:

- a) While such commercial truck is being loaded or unloaded and such additional time is reasonably required for such loading and unloading operations; or
- b) When such commercial truck is parked in connection with, and in the aid of, the performance of a service to or on a property on tidelands, where such Oversized Vehicle is parked for a period reasonably necessary to complete such service.

4. Additionally, other code sections which apply to Vehicles also apply to oversized Vehicles

(d) Administrative Regulations

- 1. The Executive Director or his or her designee may implement administrative regulations pertaining to the administration of Oversized Vehicle parking spaces.
- 2. A Violation of any provision of this Section is subject to enforcement pursuant to Section 8.16 and/or Section 8.17 of this Code.

(Enacted February 3, 2009 – Ordinance No. 2552)

(Amended April 11, 2023 – Ordinance No. 3084)

SECTION NO. 8.10 – PARKING METER RATES AND PAY STATION RATES

The District has parking meters located within its jurisdiction. When any vehicle is parked in any space that requires payment being inserted into a parking meter or pay station, the operator of said vehicle shall, upon entering said parking space, immediately cause payment to be inserted via coins, ATM card or credit card according to the time interval desired within the maximum limit and posted parking rates.

The parking meter and pay station rates may be set at different rates in the range of \$1.00 to \$2.50 per hour for all tidelands meter and pay station locations, including the following: the North Embarcadero, Tuna Harbor, and Ruocco Park, Embarcadero Marina Park North and Embarcadero Marina Park South, the Crescent area, Spanish Landing and Shelter Island area meters and pay stations based on parking demand. The parking meter and pay station rates shall be posted on the parking meters and pay stations and/or posted on a nearby sign.

When an adjustment to a rate is planned, public notice will be posted on the Port. of San Diego website no less than seven (7) days in advance of the adjustments. Rate adjustments must be approved in advance by the Executive Director of the District or his or her designee. Adjustments may be made in increments of \$0.25 up to \$1.00 at a time.

(Enacted May 9, 1963 – Ordinance No. 61)

(Amended July 27, 1965 – Ordinance No. 179)

(Amended October 10, 1967 – Ordinance No. 332)

(Amended January 15, 1974 – Ordinance No. 642)

(Amended June 17, 1980 – Ordinance No. 877)

(Amended August 9, 1983 – Ordinance No. 1039)

(Amended August 22, 1989 – Ordinance No. 1330)

(Amended October 20, 1992 – Ordinance No. 1534)

(Amended September 6, 2005 – Ordinance No. 2355)

(Amended May 2, 2006 – Ordinance No. 2392)

(Amended April 14, 2015 – Ordinance No. 2806)

(Amended April 14, 2018 - Ordinance No. 2809)

(Amended May 12, 2015 – Ordinance No. 2816)

(Amended April 14, 2016 – Ordinance No. 2855)

(Amended September 8, 2016 – Ordinance No. 2872)

SECTION NO. 8.11 – VEHICLE PARKING REGULATED

- (a) The Executive Director is hereby instructed to have lines or markings painted or placed upon the curb or upon the street for the purpose of designating parking spaces. Vehicles shall park within the lines or markings so established. It shall be unlawful to park any vehicle across any such line or marking or to park said vehicle in such position that the same shall not be entirely within the area so designated by such lines or markings.
- (b) The Executive Director shall place and maintain appropriate signs to designate time-limit parking zones, and when such signs are in proper place giving notice thereof, no operator of any vehicle shall stop, stand, or park such vehicle in excess of the time designated.
- (c) Regulation on Head-In Parking
 - 1. Unless otherwise posted, no Vehicle shall be stopped, left standing or parked where the rear wheels are back-in to the space.
- (d) Regulations for Vehicles with Boat Trailers Attached
 - 1. The Executive Director or his or her designee shall designate parking spaces for Vehicles with Boat Trailers attached, by signs, pavement stripes or other means of designation at the following Boat Launch parking lots: Shelter Island Boat Launch in San Diego, National City Boat Launch in Pepper Park, and Chula Vista Boat Launch in Chula Vista Bayfront Park. Only Vehicles with Boat Trailers attached may

park in the designated spaces and must fit within the spaces, and abide by posted regulations, including, but not limited to park closure times.

(e) Restrictions for Parking Space Uses

1. No person shall occupy, fill or obstruct a space designated for parking or adjacent driveways and sidewalks, in an tidelands parking lot with any awning, camping equipment, tent, chair, carpet, mat, appliance, beach gear, equipment, generators or other personal property other than a vehicle appropriate for the size of the parking space, except by special event permit of the Executive Director or his or her designee.

(Enacted May 9, 1963 – Ordinance No. 61)

(Amended August 24, 1993 – Ordinance No. 1604)

(Amended September 6, 2005 – Ordinance No. 2355)

(Amended September 8, 2016 – Ordinance No. 2869)

(Amended April 11, 2023 – Ordinance No. 3084)

SECTION NO. 8.12 – OVERTIME PARKING PROHIBITED

No person shall permit a vehicle to remain parked in any parking meter zone when the meter shows the parking time has expired.

(Enacted May 9, 1963 – Ordinance No. 61)

SECTION NO. 8.13 – PARKING IN EXCESS OF POSTED TIME PROHIBITED

No person shall permit a vehicle to remain parked beyond the period of legal parking time established for any parking meter zone.

No person shall deposit or cause to be deposited in a parking meter any coins for the purpose of increasing or extending the parking time of any vehicle beyond the legal parking time which has been established for the parking space adjacent to which said parking meter is placed.

(Enacted May 9, 1963 – Ordinance No. 61)

SECTION NO. 8.14 – PARKING METERS – TIME OF OPERATION

Parking meters and pay stations at all tidelands locations including the North Embarcadero, Tuna Harbor, Ruocco Park, Embarcadero Marina Park North, Embarcadero Marina Park South areas, the Crescent, Spanish Landing and Shelter Island shall be operated Monday through Sunday, except New Year's Day, Martin Luther King, Jr.'s Birthday, President's Day, Cesar Chavez Day, Memorial Day, July 4th, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.

The meters and pay stations shall be operated between the following hours at the various lots on tidelands, which shall be posted on signs in the area:

8:00 AM to 6:00 PM - Shelter Island

6:00 AM to 10:30 PM - Spanish Landing

10:00 AM to 8:00 PM - North Embarcadero, Tuna Harbor, Ruocco Park, Embarcadero Marina Park North, Embarcadero Marina Park South and the Crescent.

(Enacted May 9, 1963 – Ordinance No. 61)

(Amended January 15, 1974 – Ordinance No. 642)

(Amended May 5, 1992 – Ordinance No. 1494)

(Amended September 16, 1997 – Ordinance No. 1911)

(Amended September 6, 2005 – Ordinance No. 2355)

(Amended April 14, 2015 – Ordinance No. 2806, Ordinance No. 2810)

(Amended May 12, 2015 – Ordinance No. 2816)

(Amended April 14, 2016 – Ordinance No. 2855)

(Amended September 8, 2016 – Ordinance No. 2872)

(Amended April 9, 2019 – Ordinance No. 2942)

SECTION NO. 8.15 – PARKING REGULATIONS – ENFORCEMENT

- (a) Every Harbor Police Officer or District employee charged with and assigned to the enforcement of provisions of this Code relating to illegal parking, the provisions of the California Vehicle Code, and other laws of the State of California applicable to parking violations within the jurisdiction of the San Diego Unified Port District, shall have the duty, when any vehicle is illegally parked, to issue written notice of violation thereof stating the State vehicle license number, make of such vehicle, the time and date of such illegal parking, meter number, street location, and reference to the appropriate sections of the Code and fixing a time and place for appearance by the registered owner to answer said notice. Such notice shall be attached to said vehicle either on the steering post or front door handle thereof or in such other conspicuous place upon the vehicle as to be easily observed by the person in charge of such vehicle upon his or her return thereto.
- (b) For the purpose of regulating the use of streets and traffic thereon and as a deterrent to illegal parking, the following fees are established:

Port Code	Violation	Rate if paid within 21 days	Rate if paid after 21 days	Rate if paid after 56 days
8.11	Out-of-Stall	\$40	\$80	\$90
8.12	Expired Meter	\$30	\$60	\$70
8.13	Overtime at Meter	\$40	\$80	\$90
8.16(a)(d)(e) & (f)	Signs or Curb Markings Other than Red Zones	\$40	\$80	\$90
8.16(b)	Red Zones	\$65	\$130	\$140

The owner or operator of said vehicle may elect to mail said fees within the time established for payment thereof in accordance with the information specified in the notice of violation, provided, however, said owner or operator shall be and remain responsible for the delivery thereof.

- (c) Failure to pay the appropriate fee as provided herein or failure to contest the violation in accordance with the information specified in the notice of violation will result in proceeding against the registered owner and or the vehicle operator for violation of the appropriate Code Section in accordance with the provisions of Section 40220 of the Vehicle Code of the State of California.
- (d) A State mandated surcharge of Twelve Dollars and Fifty Cents (\$12.50) will be assessed on each parking citation issued in accordance with California Government Code Section 70372(b), Sections 76000, 76100

and 76101. This surcharge, or a portion of the surcharge, will be assessed as long as the applicable statute(s) require that the surcharge be assessed.

- (e) Payment Plan Option: If the registered owner and operator of said vehicle is determined indigent, the owner and operator of said vehicle will have the option to enroll in a payment plan within the time specified in the notice of violation. Indigent determination will be made by the District following the below income criteria set forth in Government Code Section 68632(a). Proof of indigency and enrollment requests will be accepted via the following methods:

1. Walk-in requests at the District's Administration Building (District staff will provide a self-addressed envelope to the requestor, that will contain the remittance address of the District's citation processing vendor). District staff will mail all walk-in request documentation to the District's citation processing vendor for automatic pending payment plan hold, pending final approval by District.
2. Mail-in requests and supporting documentation to the District's citation processing vendor 's address for scanning and automatic pending payment plan hold, pending final approval by District.

3. Online requests via the District's citation processing vendor that will automatically place the citation on a pending payment plan hold, pending final approval by District.
- (f) An applicant who is receiving public benefits under one or more of the following listed programs qualifies to enroll in said payment plan:
1. Supplemental Security Income (SSI) and State Supplementary Payment (SSP) (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).
 2. California Work Opportunity and Responsibility to Kids Act (CalWORKs) (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or a federal Tribal Temporary Assistance for Needy Families (Tribal TANF) grant program (Section 10553.25 of the Welfare and Institutions Code).
 3. Supplemental Nutrition Assistance Program (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code) or the California Food Assistance Program (Chapter 10.1 (commencing with Section 18930) of Part 6 of Division 9 of the Welfare and Institutions Code).

4. County Relief, General Relief (GR), or General Assistance (GA) (Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code).
 5. Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI) (Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code).
 6. In-Home Supportive Services (IHSS) (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code).
 7. Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).
- (g) The registered owner and operator of said vehicle has 60 days from issuance of a parking citation or 10 days of the administrative hearing determination (whichever is later) to apply for a payment plan. The District shall allow a registered owner or lessee who falls out of compliance with the payment plan a one-time extension of 45 calendar days from the date the payment plan becomes delinquent (first date after the missed payment due date) to resume payments before the District files a California Department of Motor Vehicles (DMV) registration hold. The District will include the payment plan requirement

information and a phone number on all parking citations and on its public internet website.

The following fees and payment plan requirements are established:

Description	Indigent Payment Plan
Fees	\$5 – Enrollment fee \$5 – Re-enrollment fee (one-time if individual falls out of compliance)
Timeline for Completion	18 months
Minimum Payment per Month	Total amount of citation owed is \$450 or less - \$25 Total amount of citation owed is \$451 or more - variable minimum amount (minimum amount will be calculated based on the amount owed and payment timeline)
Maximum number of plans per year	No Maximum
Max value per year	No Maximum
Concurrent plans allowed	Yes (unlimited)
Late penalty/fee waived (with the exception of any state mandated surcharges of \$12.50, identified in section d)	Yes (fees reinstated if plan is not completed)
Deadline for processing	Within 60 days of citation issuance or 10 days of the administrative hearing determination. *

*One-time exception granted after DMV registration hold has been placed.

(Enacted May 9, 1963 – Ordinance No. 61)
(Amended October 20, 1970 – Ordinance No. 491)
(Amended October 9, 1979 – Ordinance No. 850)
(Amended November 24, 1981 – Ordinance No. 945)
(Amended February 9, 1982 – Ordinance No. 959)
(Amended September 7, 1982 – Ordinance No. 986)
(Amended April 19, 1983 – Ordinance No. 1016)
(Amended November 26, 1985 – Ordinance No. 1155)
(Amended February 20, 1990 – Ordinance No. 1354)
(Amended August 24, 1993 – Ordinance No. 1604)
(Amended October 18, 1994 – Ordinance No. 1701)
(Amended September 6, 2005 – Ordinance No. 2355)
(Amended January 11, 2011 – Ordinance No. 2637)
(Amended May 8, 2012 – Ordinance No. 2668)
(Amended August 12, 2014 – Ordinance No. 2775)
(Amended September 8, 2016 – Ordinance No. 2871)
(Amended June 12, 2018 – Ordinance No. 2913)

SECTION NO. 8.16 – PARKING RESTRICTIONS

- (a) No person shall stop, stand or park any vehicle on property of the San Diego Unified Port District in violation of posted signs or curb markings other than red zones.
- (b) No person shall stop, stand or park any vehicle on property of the San Diego Unified Port District in violation of "red zone" curb markings.
- (c) The Executive Director is authorized to determine such parking restrictions and locate such signs or curb markings as are necessary or appropriate to give notice of any restriction and the applicable hours, times or days any such restriction is effective.
- (d) **Parking or Standing in Disabled Persons Parking Zones** - No person shall park or stand any vehicle in a Disabled Persons Parking Zone unless the operator or the passenger being transported by said vehicle, is physically disabled and the vehicle displays a license issued under the provisions of Section 9105 or Section 22511.5 of the California Vehicle Code. Disabled Persons Parking Zones shall be operative twenty-four (24) hours a day (Sundays and holidays included); provided, however, that the Executive Director may determine and declare limited periods during which any Disabled Persons Parking Zone shall be operative, and such limited operative period shall be effective when appropriate signs giving notice thereof are erected.

- (e) **Seventy-Two (72) Hour Limitation** - No person shall park or leave standing or cause to be parked or left standing any vehicle on any street, parking lot or parking area on the property of the San Diego Unified Port District for seventy-two (72) or more consecutive hours. This Seventy-Two (72) Hour limitation applies to any street, parking lot or parking area within the San Diego Unified Port District's jurisdiction, regardless of any other posted parking designations and/or restrictions. A vehicle must move at least one-tenth (1/10) of one mile in order to park and be afforded a seventy-two (72) hour period.
- (f) **Prohibition of Use of Streets for Storage, Service or Sale of Vehicles or for Habitation** - It is unlawful for any person to leave standing, or cause or allow to be left standing, any inoperable vehicle on any street for more than four consecutive hours. A vehicle is considered to be inoperable when it is wrecked, burned, dismantled, when it lacks a motor, transmission, or wheels, when it is on blocks, or when it is otherwise incapable of being driven upon roads or highways in conformity with the requirements of the Vehicle Code. It is unlawful for any person to use a vehicle as temporary or permanent living quarters, abode or place of habitation either overnight or during the day. This Section applies to any street, parking lot or parking area within the San Diego Unified Port District's jurisdiction, regardless of any other posted parking designations and/or restrictions.

- (g) A violation of any of these provisions shall constitute an infraction and shall be punished as provided in Section 8.15. In addition, any such vehicle may also be impounded as provided in Section 8.17.

(Enacted July 28, 1964 – Ordinance No. 133)

(Amended September 12, 1972 – Ordinance No. 601)

(Amended April 19, 1983 – Ordinance No. 1017)

(Amended September 6, 2005 – Ordinance No. 2355)

(Amended September 8, 2016 – Ordinance No. 2870)

SECTION NO. 8.17 – IMPOUNDING OF ILLEGALLY PARKED VEHICLES

The Harbor Police and Traffic Enforcement Officers of the San Diego Unified Port District shall have the right to remove any vehicle found parked in violation of posted signs. In removing vehicles, the members of the Harbor Police and Traffic Enforcement Departments shall follow the provisions of Section 22850, et seq. of the Vehicle Code of the State of California establishing the procedure to remove and store vehicles. No vehicle may be removed under the provisions of this section unless signs are posted in the regulated areas which give notice of the restrictions as to parking governing the area in which said vehicle may be found and indicating that vehicles parked in violation will be removed.

(Enacted July 28, 1964 – Ordinance No. 133)

(Amended September 16, 1997 – Ordinance No. 1911)

SECTION NO. 8.18 CAMPING AND STORAGE OF PERSONAL PROPERTY ON TIDELANDS**(a) Purpose**

The tidelands of the District should be readily accessible and available to visitors and the public at large. The use of tidelands areas for camping purposes or storage of personal property interferes with the rights of others to use the tidelands in ways they were intended. The purpose of this Article is to maintain the tidelands within the District in a clean and accessible condition.

(b) Definitions

Unless the particular provisions or the context otherwise requires, the definitions contained in this Section shall govern the construction, meaning and application of words and phrases used in this Article.

1. Camp means to pitch or occupy camp facilities; to use camp paraphernalia.
2. Camp facilities include, but are not limited to, tents, huts or temporary shelters.
3. Camp paraphernalia includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, or non-District authorized cooking facilities and similar equipment.

4. Store means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
 5. Tidelands means those areas in the member cities of Chula Vista, Coronado, Imperial Beach, National City and San Diego under the control and jurisdiction of the San Diego Unified Port District and not under lease to private parties. Tidelands shall include, without limitation, streets, parking lots, sidewalks, alleys, plazas, parks, piers, beaches, sea walls and open public lands.
- (c) Unlawful camping. It shall be unlawful for any person to camp, occupy camp facilities or use camp paraphernalia on tidelands.
- (d) Storage of personal property in public places. It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on tidelands.

(Enacted April 12, 1966 – Ordinance No. 217)

(Amended February 12, 2008 – Ordinance No. 2488)

SECTION NO. 8.19 – SPEED REGULATIONS – MOTOR VEHICLES

It shall be unlawful to operate any vehicle on wharves, piers or other Port property in excess of posted speed limits.

(Enacted April 12, 1966 – Ordinance No. 218)

SECTION NO. 8.20 – OFFICERS AUTHORIZED TO REMOVE VEHICLES FROM A STREET OR HIGHWAY

(a) Any Harbor Police or Traffic Enforcement Officer of the District is hereby authorized to remove from a street or highway to the nearest garage or other place of safety or to a garage designated or maintained by the District, under the circumstances hereinafter enumerated:

1. When any vehicle has been parked or left standing upon a street or highway for Seventy-Two (72) or more consecutive hours.
2. When any vehicle has been parked or left standing upon a street or highway when the parking or standing of vehicles thereon has been prohibited by the District and where signs are posted giving notice of such removal.
3. When any vehicle is illegally parked on a street or highway in violation of signs forbidding standing or parking and the use of a street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least Twenty Four (24) hours prior to the removal.
4. Wherever the use of the street or highway or any portion thereof is authorized by the District for a purpose other than the normal flow

of traffic or for the movement of equipment, articles or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least Twenty-Four (24) hours prior to the removal.

- (b) The Executive Director is authorized to determine the locations where vehicle parking or standing is prohibited and to post the necessary signs giving notice of such removal.
- (c) Any officer removing a vehicle as provided herein shall comply with the applicable requirements of Section 22850 et seq. of the California Vehicle Code and the Executive Director is authorized to carry out the provisions of said Sections.

(Enacted September 7, 1982 – Ordinance No. 987)

(Amended September 16, 1997 – Ordinance No.1911)

SECTION NO. 8.21 – PARKING RATES AT TIDELANDS PUBLIC PARKING LOTS AND GARAGES

In order to efficiently utilize all District tidelands public parking lots and garages and maximize revenue to the District, the Executive Director is authorized to set market-based parking rates at the tidelands public parking lots and garages listed below, not to exceed the maximum rates for each user type as approved by ordinance of the Board of Port Commissioners (Board) as set forth herein.

Any changes to the maximum parking rates as established by the Executive Director shall be posted at each respective parking lot or garage for the duration of the time such parking rates are in effect.

B Street Pier Public Parking Lot

Rate Type	Rates
Public Rate, 1 Hour	\$6.00 to \$15.00
Public Rates, 1 to 3 Hours	\$8.00 to \$25.00
Public Rate, 3 to 5 Hours	\$12.00 to \$35.00
Public Rate, 5 to 8 Hours	\$14.00 to \$40.00
Public, Daily Max Rate, 8 to 12 Hours	\$16.00 to \$50.00
Special Events Rate	\$20.00 to \$50.00
Valet Parking Rate	\$10.00 to \$50.00
Bus/RV/Oversized Vehicles Flat Rate	\$20.00 to \$80.00 (Time Limit Flexible)

Convention Center Public Parking Garage (Underground at the Convention Center)

Rate Type	Rate
Convention Center Event Rate	\$15.00 to \$25.00
Special Even Rate (Non-Convention Center Events)	\$15.00 to \$50.00
Daily Employee Rate	\$4.00 to \$6.00
Monthly Parking Rate (Convention Center Staff)	\$50.00 to \$100.00
Monthly Parking Rate (Non-Convention Center Staff)	\$100.00 to \$200.00
Shuttle Program	\$5.00 to \$20.00
Public Twilight Rate – after 6 PM (Subject to demand and advance purchase)	\$7.00 (Sun thru Thurs) \$10.00 (Fri thru Sat and Holidays)

Bayfront Public Parking Garage (Adjacent to Hilton Bayfront Hotel)

Rate Type	Rate
Public Rate Up to 1 Hour	\$11.00
Convention Center Event Rate	\$15.00 to \$25.00
Public Daily Rate, to include Special Event Rate (Non-Convention Center Events)	\$15.00 to \$50.00
Monthly Parking Rate	\$60.00 to \$200.00
Shuttle Program	\$5.00 to \$20.00
Public Twilight Rate – after 6 PM (Subject to demand and advance purchase)	\$7.00 (Sun thru Thurs) \$10.00 (Fri thru Sat and Holidays)

***Navy Pier Public Parking Lot**

Rate Type	Rates**	
	Apr 1 – Sept 30	Oct 1 – Mar 31
Public Rate up to 2 Hours	Up to \$5.00 per Hour	Up to \$3.75 per Hour
Public Rate up to 6 Hours	Up to \$20.00	Up to \$15.00 per Hour
Public Rate Maximum (6 to 24 Hours)	Up to \$25.00	Up to \$18.75
Special Event Rate	Up to \$30.00	Up to \$22.50
Midway Educational Overnight Rate after 4 PM	Up to \$10.00	Up to \$10.00
***Monthly Rate	\$145.00 to \$180.00	\$145.00 to \$180.00
Motorcycle Rate	50% of Posted Rate	50% of Posted Rate

**Navy Pier Public Parking Lot rates recently approved in the Coastal Development Permit dated February 17, 2023 (CCC Permit Application Number 6-22-1069; filed as Clerk Doc No. 74984).*

***Pursuant to the above referenced Coastal Development Permit, parking rates may be adjusted annually consistent with the Consumer Price Index.*

****Rate range with no change; rate will subset with opening of Freedom Park at Navy Pier.*

(Enacted April 15, 2014 – Ordinance No. 2761)

(Amended August 12, 2014 – Ordinance No. 2774)

(Amended April 14, 2015 – Ordinance No. 2807, Ordinance No. 2812)

(Amended April 27, 2015 – Ordinance No. 2811)

(Amended May 12, 2015 – Ordinance No. 2817)

(Amended April 14, 2016 – Ordinance No. 2856)

(Amended May 9, 2023 – Ordinance No. 3090)

**SECTION NO. 8.22 – ADVERTISING OR DISPLAYING BOATS FOR SALE
REGULATED**

It shall be unlawful to advertise or display any boat or vehicle for sale in the harbor or on District tidelands except in leased areas when the sale of boats or vehicles is permitted by the provisions of the lease.

(Enacted April 12, 1966 – Ordinance No. 220)

(Amended May 12, 2015 – Ordinance No. 2817)

SECTION NO. 8.23 – SOUNDING OF SIRENS PROHIBITED

It shall be unlawful to sound, operate or cause to be sounded any siren on a vessel in the harbor except on vessels owned or operated by a governmental agency.

(Enacted April 12, 1966 – Ordinance No. 221)

SECTION NO. 8.24 – ABANDONING WATERCRAFT PROHIBITED

It shall be unlawful for any owner or other person in control of any vessel, watercraft or other object to abandon any such vessel, watercraft or other object in the harbor or on the tidelands or submerged lands of the District.

Any such vessel, watercraft or other object may be removed and disposed of by the Executive Director. The cost of such removal and disposition incurred by the District shall be paid by the owner or person in control of such vessel, watercraft or other object.

(Enacted April 12, 1966 – Ordinance No. 222)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.25 – AUTHORITY TO REMOVE WATERCRAFT**(a) Authority to Remove Watercraft Found in Violation of Law**

1. In addition to any other authority or remedy provided by any statute, the Executive Director or any harbor police officer is hereby authorized to remove and impound any vessel, watercraft or object found in violation of any Federal or State law or provision of this Code in accordance with the procedures set forth in this Section. An attendant on board shall be given the opportunity to forthwith remove any such vessel, watercraft or object before it is impounded.
2. The Executive Director is authorized to enter into contracts, on behalf of the District, with private parties for the removal and impounding of any vessel, watercraft or object found in violation of any Federal or State law or provision of this Code.
3. The registered and legal owners of record, or the agent of any such vessel, watercraft or object so removed and impounded shall have the right to secure the release of such vessel, watercraft or object after furnishing proof of such ownership to the District and after payment to the District of the costs and expenses for such removal, impound and storage.

4. If the owner or agent of any such vessel, watercraft or object cannot be found within Thirty (30) days, or, refuses upon demand to pay the lawful costs and expenses as provided above, the District may sell the property at public auction after publication of the sale is advertised in a newspaper of general circulation at least Five (5) days prior thereto, or, the District may keep, destroy or otherwise dispose of such property.
 5. Harbors and Navigation Code Section 500 et seq. shall apply to the disposition of vessels registered with the Department of Motor Vehicles. Nothing herein shall relieve the owner of such vessel, watercraft or object or the person responsible for such vessel, watercraft or object from independent personal liability for such costs and expenses and any such owner or person responsible shall remain so liable.
- (b) Authority to Remove Watercraft Pursuant to Judgment
1. In addition to any other remedies provided by law, the Executive Director or any harbor police officer is hereby authorized to remove and impound any vessel, watercraft or object which a court of competent jurisdiction determines to be in violation of any law.
 2. The Executive Director is authorized to enter into contracts on behalf of the District with private parties for the removal and

impounding of any vessel, watercraft or object which a court of competent jurisdiction determines to be in violation of any law.

3. The registered and legal owners of record, or the agent of any such vessel, watercraft or object so removed and impounded shall have the right to secure the release of such vessel, watercraft or object after furnishing proof of such ownership to the District and after payment to the District of the costs and expenses for such removal, impound, and storage.
4. If the owner or agent of any such vessel, watercraft or object cannot be found within Thirty (30) days, or, refuses upon demand to pay the lawful costs and expenses as provided above, the District may sell the property at public auction after publication of the sale is advertised in a newspaper of general circulation at least Five (5) days prior thereto, or, the District may keep, destroy or otherwise dispose of such property.
5. Harbors and Navigation Code Section 500 et seq. shall apply to the disposition of vessels registered with the Department of Motor Vehicles. Nothing herein shall relieve the owner of such vessel, watercraft or object or the person responsible for such vessel, watercraft or object from independent personal liability for such

costs and expenses and any such owner or person responsible shall remain so liable.

(Enacted January 20, 1987 – Ordinance No. 1198)

(Amended May 26, 1992 – Ordinance No. 1498)

(Amended September 4, 2001 – Ordinance No. 2148-

Urgency Ordinance for Sections 8.25 [a] 1 and 2)

SECTION NO. 8.26 – ASSEMBLIES REGULATED

It shall be unlawful for any company, society, organization or group of persons, exceeding Twenty-Five (25) in number, to hold, conduct or participate in any celebration, parade, service, picnic, demonstration or exercise on District property without the prior written approval of the Executive Director.

(Enacted April 12, 1966 – Ordinance No. 223)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.27 – AQUATIC ACTIVITIES REGULATED

- (a) It shall be unlawful to fish, swim, surfboard, water-ski or engage in any other aquatic activity in any area within the harbor or on the tidelands or submerged lands of the District where any such activity is prohibited by order of the Board of Port Commissioners, or to engage in any such activity contrary to regulations adopted by the Board of Port Commissioners. Prohibited activities and regulations ordered by the Board of Port Commissioners shall be displayed by signs posted in areas where such prohibitions or regulations apply.
- (b) It shall be unlawful to swim, bathe, water-ski or use a surfboard, sailboard, windsurfer or paddleboard in the marked channel of Shelter Island Yacht Harbor, the marked entrance channel to Shelter Island Yacht Harbor, the marked channel of the Commercial Basin, the marked entrance channel to the Commercial Basin, the marked channel of Glorietta Bay, the marked entrance channel to Glorietta Bay, the marked channel of the east and west lagoons of Harbor Island, the marked Chula Vista channel, the National City Launching Ramp Basin, the Chula Vista Launching Ramp Basin, or the marked Coronado Cays channel.
- (c) It shall be unlawful to operate a boat, vessel or other watercraft at a speed

in excess of Five (5) Miles Per Hour upon the waters of San Diego Bay in the areas defined in Section (b), above.

(Enacted April 12, 1966 – Ordinance No. 224)

(Amended September 5, 1967 – Ordinance No. 321)

(Amended August 21, 1973 – Ordinance No. 635)

(Amended October 24, 1978 – Ordinance No. 817)

(Amended April 1, 1986 – Ordinance No. 1168)

(Amended September 6, 2005 – Ordinance 2355)

SECTION NO. 8.28 – REGULATION OF PARA-SAILING, HANG GLIDERS AND SIMILAR DEVICES

- (a) It shall be unlawful for any person to use a para-sail; hang glider; ski-kite or similar device, which may be used to lift a person from the waters of San Diego Bay or the tide or submerged lands of said Bay, except by special permit issued by the Executive Director.
- (b) For purposes of this section, the following shall apply:
1. "Para-sail" shall mean any multi-vented sail or parachute-like device used to elevate a person by a towline.
 2. "Hang glider" shall mean any delta wing kite used as an air foil to elevate a person by a towline.
 3. "Ski-kite" shall mean any kite used to elevate a person by towline.

(Enacted October 4, 1983 – Ordinance No. 1048)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.29 – VEHICLE IMPOUND COST RECOVERY PROGRAM FEE**(a) Purpose**

This section establishes a vehicle impound cost recovery program to establish a fee and a charge, payable to the District, in an amount equal to the District's administrative costs and expenses for: removing, impounding, storing, or releasing a lawfully impounded vehicles, and conducting a hearing and processing an appeal after a vehicle is impounded. The Harbor Police removes and stores numerous vehicles from streets and highways and public and private property in the jurisdiction of the San Diego Unified Port District and neighboring areas pursuant to Sections 22651 et seq. of the Vehicle Code.

(b) Authority

1. California's Vehicle Code and Section 8.20 of this code authorize the Harbor Police Department and other duly authorized persons to remove motor vehicles from the District's streets and hold, or "impound," the vehicles for certain violations of the law such as unpaid parking tickets, expired registration, illegal parking, driving under the influence or without a license, speed contests or reckless driving. The Vehicle Code also permits the Harbor Police Department to impound vehicles to preserve evidence, investigate

a crime and other lawful reasons. The District's Harbor Police Department regularly impounds vehicles in violation of those laws.

2. Vehicle Code Section 22850.5(a) authorizes the District to adopt an ordinance for imposing a vehicle impound release fee equal to the District's administrative expenses related to removing, impounding, storing or releasing vehicles. Additionally, Vehicle Code Section 22850.5(b)(4) allows the District to impose a charge, as part of its administrative costs, for providing a hearing or an appeal on the impounded vehicle's removal, impoundment, storage or release, if the registered owner, the legal owner or either one's agent requests, in writing, the hearing or appeal.
3. When the Harbor Police Department impounds a vehicle and later releases it to its owner, the District incurs substantial labor costs and administrative expenses, including, but not limited to:
 - a) Documenting the impound;
 - b) Contacting the court or prosecutor and confirming the vehicle is no longer needed as evidence;
 - c) Verifying that Department of Motor Vehicle registration fees were paid;
 - d) Releasing the impound hold on the vehicle; and

e) Conducting a post-impound hearing or processing a post-impound appeal if requested.

4. When the Harbor Police Department lawfully impounds a vehicle for a violation of the law, the vehicle's owner should bear the financial burden and reimburse the District for its costs to impound the vehicle. Therefore, creating a vehicle impound release fee and requiring the vehicle's owner to pay the fee are appropriate means for recovering the District's administrative costs and expenses.

5. When the vehicle's owner requests a hearing or an appeal concerning the impounded vehicle's removal, impoundment, storage, or release, that person should reimburse the District for its costs to conduct the hearing and process the appeal. Therefore, creating a post-impound hearing charge and requiring the vehicle's owner to pay the charge are appropriate means for recovering the District's administrative costs and expenses.

(c) Definitions

For purposes of the section, certain words and phrases not otherwise defined in code Section 0.03 shall be defined as follows, unless the context requires a different meaning:

1. “Legal Owner” – has the same meaning as that term is defined in California Vehicle Code Section 370, or any successor legislation.
The term includes the legal owner's agent.
2. “Registered Owner” – has the same meaning as that term is defined in California Vehicle Code Section 505, or any successor legislation.
The term includes the registered owner's agent.
3. “Vehicle” – has the same meaning as that term is defined in California Vehicle Code Section 670, or any successor legislation.

(d) Vehicle Impound Release Fee

1. The District establishes a vehicle impound release fee, payable when a registered owner or a legal owner seeks the release of a vehicle which the District's Harbor Police Department impounded under state law or any provision of this Code.
2. A registered owner who redeems an impounded vehicle or requests its release shall pay to the District through its Harbor Police Department the vehicle impound release fee.
3. A legal owner who redeems an impounded vehicle or requests its release and who voluntarily requests a post-storage hearing shall pay to the Harbor Police Department the vehicle impound release fee.

(e) Post-impound Hearing Charge

1. The District establishes a post-impound hearing charge, payable when a registered owner or a legal owner submits to the District's Harbor Police Department a written request for a hearing or an appeal after a vehicle is impounded.
2. A registered owner or a legal owner who requests, in writing, a hearing or an appeal related to the impounded vehicle's removal, impoundment, storage or release shall pay to the District's Harbor Police Department the post-impound hearing charge.

(f) Unpaid Fee or Charge-Civil Debt

1. The vehicle impound release fee under Section (d) and the post-impound hearing charge under Section (e) are in addition to any one or more of:
 - a) The charges, fees, or fines that a registered owner or a legal owner may owe the District under a California Vehicle Code provision or under any provision of this Code or both; or
 - b) The charges that a registered owner or a legal owner may owe a vehicle towing services provider.
2. When a person fails, neglects or refuses to pay the vehicle impound release fee under Section (d) for an impounded vehicle that qualifies for release or when a person otherwise pays that fee

but later cancels or stops payment on it, and in either situation that fee's payment is lawfully due or owing, the unpaid amount constitutes a debt owed to the District by that person, from whom the District may recover in a civil action.

3. When a person who seeks a post-impound hearing or appeal fails, neglects, or refuses to pay the post-impound hearing charge under Section (e) or when a person otherwise pays that charge but later cancels or stops payment on it, and in either situation that charge's payment is lawfully due or owing, the unpaid amount constitutes a debt owed to the District by that person, from whom the District may recover in a civil action.

(g) Fee and Charge-Exceptions

1. The District through its Harbor Police Department shall not collect from a registered owner or a legal owner the vehicle impound release fee under Section (d) or post-impound hearing charge under Section (e), or both, under any of the following circumstances:
 - a) When the vehicle was:
 - 1) Reported stolen and recovered;
 - 2) Driven or taken without the registered owner's or the legal owner's express or implied permission and the

vehicle was evidence of a crime, contained evidence of a crime or was part of a criminal investigation;

- 3) Impounded in error;
- 4) Lien sold under Civil Code Section 3068.1 to 3074 and Vehicle Code Section 22851 or any successor legislation, and the lien sale proceeds were insufficient to pay the tow provider's total charges and administrative costs.

- b) When a court orders a waiver of the vehicle impound release fee or the post-impound hearing charge, or both.
- c) When state law or this code exempts or excludes a registered owner or a legal owner from paying a vehicle impound release fee or post-impound hearing charge, or both.

(h) Fee and Charge-Refund

The District through its Harbor Police Department shall refund the impound release fee and/or post-impound hearing charge incurred by a registered owner if the hearing officer whom the District through its Harbor Police Department appoints to conduct the post impound hearing or process the post-impound appeal determines that:

1. A reasonable ground for removing, impounding, or storing the vehicle did not exist;
2. A circumstance listed in Section (g) applies; or
3. The facts disclosed at the hearing or in the appeal warrant the impound release fee's refund.

(i) Resolution Establishing Fee and Charge

1. By resolution, the Board of Port Commissioners shall establish or modify the amount or rate of:
 - a) The vehicle impound release fee under Section (d), basing it on the actual and reasonable costs to the District, including administration and overhead, for impounding vehicles; and
 - b) The post-impound hearing charge under Section (e), basing it on the actual and reasonable costs to the District, including administration and overhead, for providing post-impound hearings and appeals.
2. To reflect cost-of-living changes and to ensure that changing economic conditions do not impair the real value of the vehicle impound release fee and the post-impound hearing charge, on July 1 of each year the Chief of Harbor Police shall:
 - a) Review the vehicle impound release fee and the post-impound hearing charge; and

- b) Adjust the vehicle impound release fee, or the post-impound hearing charge, or both:
 - 1) Upward or downward by the same percentage increase or decrease, occurring during the previous twelve (12) months, in the consumer price index for all urban consumers ("CPI-U") for the San Diego Area (published by the Bureau of Labor Statistics, U.S. Department of Labor), or applying a similar index if the CPI-U is not published or available, and
 - 2) To the nearest one dollar (\$1.00).
- 3. In addition to adjusting the vehicle impound release fee and the post-impound hearing charge for cost-of-living changes under Section (i) b., the Chief of Harbor Police shall recommend, with the Executive Director's approval, that the Board of Port Commissioners revise the fee and the charge when a change in the cost of impounding and releasing vehicles or conducting post-impound hearings and processing post-impound appeals, or both, makes revision appropriate.
- 4. The Chief of Harbor Police may prepare, adopt, amend and enforce rules, regulations or procedures for:
 - a) Releasing a property impounded vehicle;

- b) Conducting a post-impound hearing or appeal; and
 - c) Collecting, administering, and refunding the vehicle impound release fee and post-impound hearing charge.
5. A copy of the resolution establishing the current vehicle impound release fee and post-impound hearing charge will remain on file and will be available for inspection in the Office of the District Clerk.

(Enacted March 6, 2012 – Ordinance No. 2665)

SECTION NO. 8.30 – REGULATING ALL SIGNAGE ON ALL NAVIGABLE WATERS, TIDELANDS, AND SUBMERGED LANDS GRANTED TO THE DISTRICT**(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.

(Enacted April 14, 2016 – Ordinance No. 2854)

SECTION NO. 8.31 – AUTHORITY OVER LOCAL LAWS

- (a) That any local ordinance purporting to regulate District activities within or by the District in fields in which the District has acted are hereby expressly preempted, void and of no force or effect within the District, and shall not have any force and effect of law with respect to the District.
- (b) That the District further specifically reserves its statutory right to preempt any local law purporting to govern or regulate District activities or expenditures.

(Enacted April 21, 2016 – Ordinance No. 2857)

SECTION NO. 8.32 – REGULATING BUILDING WRAP SIGNAGE**(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 definitions shall apply:

1. “Building Wrap” means a type of Signage, as that term is defined in Section 8.30 of this Code, fabricated using materials that are transparent such as reinforced vinyl, perforated mesh, or other building wrap material temporarily affixed to the side of a Qualifying Building. Building Wraps may include any illumination, including but not limited to, electronic, digital, or similarly illuminated components, designed to emit or brightly reflect artificial light.
2. “Building Wrap Application” means an application submitted to the District in accordance with Board of Port Commissioners Policy No. 357, as it may be amended from time to time.
3. “Building Code” means the most recent edition of the California Building Standards Code. The most recent edition of the Building Code shall be that edition in effect at the time the District enters into each license for a Building Wrap on a Qualifying Building.

4. “Commercial District” means those areas currently designated as “Commercial Recreation” in Planning District 3 – Centre City Embarcadero as depicted on Exhibit 1 attached hereto and incorporated herein by reference, or as such areas may be depicted in any subsequent Port Master Plan
5. “Inspector” means someone with sufficient knowledge and expertise to determine that a Building Wrap conforms to the requirements of the Building Code, which may be derived from experience as a District, city or county building official, inspector, or plan checker. An Inspector may be a District employee or an independent contractor of the District hired to perform the essential functions of an Inspector.
6. “Qualifying Building” means a structure within the Commercial District not owned by the District having a roof supported by permanent columns or walls intended for use by humans for commercial use. Notwithstanding the foregoing, “Qualifying Building” shall also include the San Diego Convention Center.

(b) Permitted Building Wraps

Building Wraps may be permitted on any Qualifying Building, subject to the following:

1. “Submittal of Building Wrap Application” – A Building Wrap

Application must be submitted for District consideration of any proposed Building Wrap. A license agreement pursuant to Section 1(b)(3) below will not be entered into with the applicant until the Building Wrap Application has been approved.

2. Discretionary Review of Building Wrap Application

- a) The Building Wrap Application shall undergo discretionary review by the District. Subject to Section 1(b)(5) below, the District shall not consider content in reviewing an application for a Building Wrap. The District’s discretionary review of a Building Wrap Application shall include review under the California Environmental Quality Act (CEQA) (California Public Resource Code § 21000, et seq.), the California Coastal Act (Coastal Act) (Public Resource Code 30000 et seq.), San Diego Unified Port District Code and all other applicable laws, regulations and District policies. The Building Wrap Application approval may include restrictions on the time, place and manner of the erection, affixing, dimensions, and operation of Building Wraps. Examples of restrictions include, but are not limited to: (1) the location of the exterior facing surface area upon which a Building Wrap may be affixed; (2) the amount of

coverage of the exterior facing surface area upon which a Building Wrap may be affixed; and (3) the number of Building Wraps that may be erected, affixed and operated at the same time within the Commercial District. In addition, the District may require that the applicant agree to place one or more Building Wraps on the Qualifying Building, at the applicant's sole cost and expense and at such times to be designated by the District in the license agreement, that promote the District or District-sponsored events. The District reserves its full discretion to adopt all feasible mitigation measures, alternatives, including a no project alternative, and a statement of overriding consideration, if applicable and approve or disapprove one or more Building Wraps.

- b) A Building Wrap Application may only be approved or denied after review and approval of the project plans for the Building Wrap by an Inspector, certifying that the Building Wrap satisfies all relevant provisions of the Building Code.

- 3. "License Agreement for Building Wrap" – Upon approval of the Building Wrap Application under Section 1(b)(2) above, the District may enter into a license agreement with the applicant to affix one or more Building Wraps to a Qualifying Building. Said erecting,

affixing, operating and rotating, if any, of the Building Wrap, may only occur upon the applicant's compliance with the terms set forth in the license agreement and other approvals and as set forth herein. All license agreements shall, at a minimum, include the following terms:

- a) A provision requiring a licensee to defend, indemnify, and hold the District harmless, including, but not limited to claims and challenges brought under CEQA or the Coastal Act.
- b) A provision detailing the insurance to be required from licensee.
- c) The requirement that a Building Wrap may only be affixed to a Qualifying Building upon inspection and approval by an Inspector, ensuring that the proposed Building Wrap satisfies all relevant provisions of the Building Code.
- d) The requirement that the licensee be a "tenant in good standing," as that term is defined in BPC Policy No. 355, Section II.B.4.
- e) A negotiated license fee as set forth in Section 1(b)(6) below.
- f) The District's right to terminate the license at any time during the term of the license for no cause; provided, however, the

District shall not terminate based on content protected by the First Amendment.

4. “Compliance with Laws” – Applicant, licensee, and Building Wraps must comply with all applicable federal, state, and local laws and regulations, including, without limitation, the ordinances and policies of the District.
5. “Content” – Content on Building Wraps shall be unregulated except for content unprotected by the First Amendment, including, but not limited to, the following categories which may change from time to time: (i) child pornography; (ii) false statements of fact; (iii) commercial speech that is false, misleading, or promotes illegal activity; and (iv) certain types of (a) incitement of illegal activity; (b) fighting words; (c) obscenity; and (d) defamation.
6. “License Fee” – The license fee, which may be expressed as a formula, and a payment schedule, shall be set by the District and licensee based on market information, which may include consideration of things such as licensee’s agreement to produce, install, and maintain one or more Building Wraps on the Qualifying Building that promote the District or a District-sponsored event.

7. “Time Limits” – A single Building Wrap shall not be affixed to a Qualifying Building for more than thirty (30) consecutive days.
8. “Cost Recovery” – Applicant shall be responsible for payment to the District of all costs associated with the Inspector’s work in conjunction with Sections 1(b)(2) and 1(b)(3) herein, subject to BPC Policy No. 106 - Cost Recovery User Fee Policy, as it may be amended from time to time.
9. “Penalties” – Any violation of this Ordinance shall be punishable in accordance with Section 0.11 of this Code (General Penalty).

(c) Preemption

In the event of any inconsistency between this Section 8.32 and any ordinances, policies, guidelines, rules, regulations, programs, leases, temporary use permits, tidelands use and occupancy permits, or similar documents, whether adopted or enforced by the Board, by District staff, or otherwise, the provisions of this Section 8.32 shall apply.

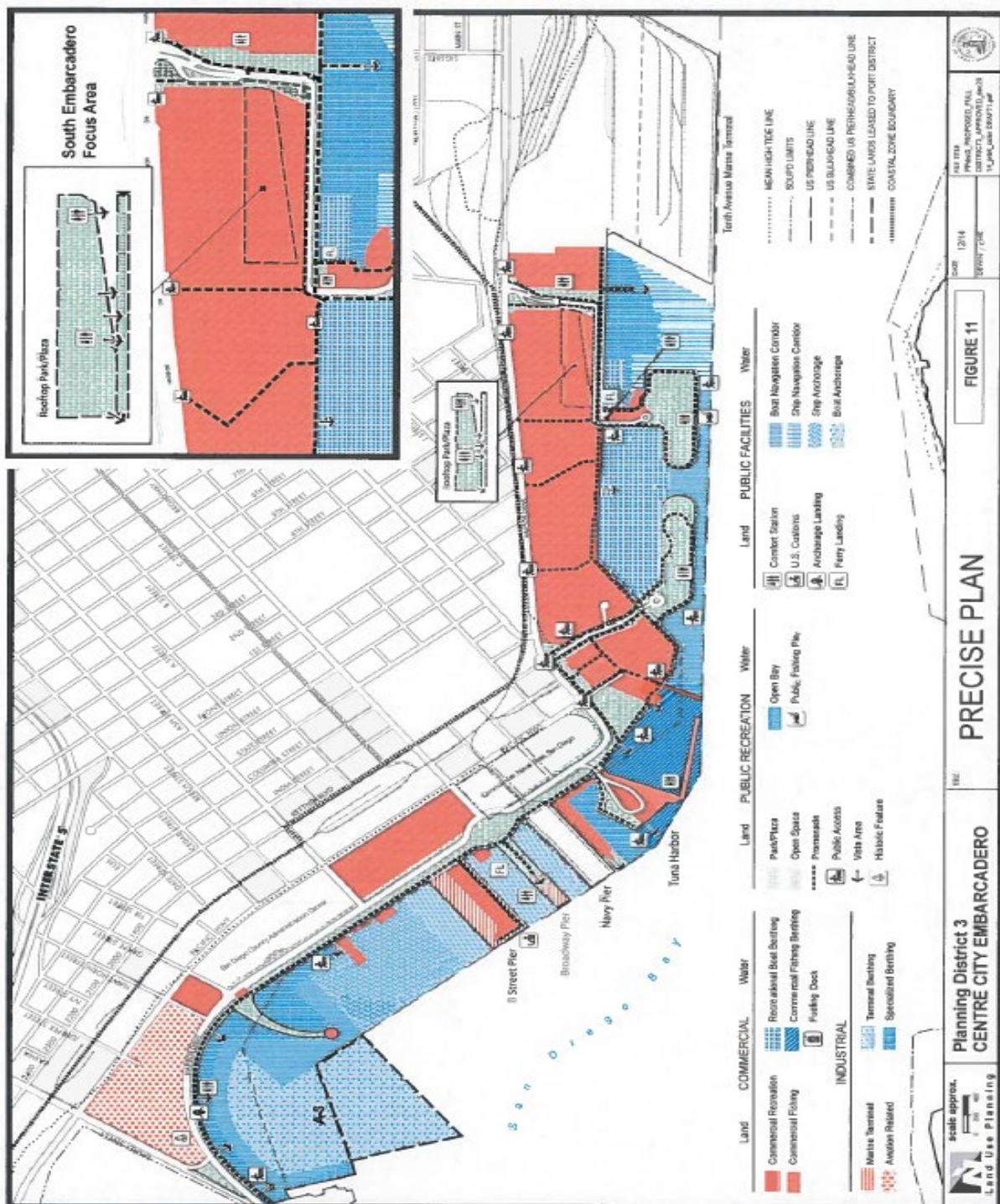
(d) Severability

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which

can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

(Enacted May 16, 2017 – Ordinance No. 2891)

Exhibit 1 to Ordinance No. 2891



SECTION NO. 8.50 – RUBBISH & WASTE DISPOSAL, REGULATED

- (a) It shall be unlawful for any person to dump any material or throw garbage, offal, rubbish, litter, sewage or refuse of any kind into the Bay of San Diego or upon any lot, tract of land, street, alley, lane, court, sidewalk or place under the jurisdiction and control of the San Diego Unified Port District without the written permission of the Executive Director.
- (b) It shall be unlawful for any person, firm, corporation or association to discharge, deposit, or pass into or onto the waters or shores of San Diego Bay, any inflammable material, asphalt, coal tar or residuary product of coal, petroleum by-product, bitumen, other carbonaceous material, chemicals, or industrial waste, without the written permission of the Executive Director.
- (c) It shall be unlawful for any occupant, lessee, tenant, or licensee of any premises within said area to place, or allow to be placed, or allow to remain on any premises within said area such garbage, offal, rubbish, litter, refuse or foreign material of any kind without the written permission of the Executive Director.

- (d) Nothing in this section shall be construed to limit the operation of any duly ordained regulation of any city whose corporate limits extend into the Bay of San Diego or over the tidelands adjacent thereto.

(Enacted May 9, 1963 – Ordinance No. 62)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.60 – RADIOACTIVE SUBSTANCES – PERMIT REQUIRED – CONDITIONS

It shall be unlawful for any person to handle, transport, load, discharge, stow, store, possess or retain, or otherwise bring, any radioactive substances or substances that may possibly be radioactive, or any devices or contrivances that can be operated to produce ionizing radiation, into the harbor or upon property of the District, unless such person shall first have applied for and been issued a written permit by the Executive Director so to do, and unless such person shall agree in writing to and shall comply with all of the terms and conditions that may be specified in such permit. The permit shall be subject to such terms and conditions as may be therein contained and to the following express terms and conditions:

- (a) Permittee shall post a faithful performance bond, approved as to form by the Port Attorney, or, in lieu thereof, the equivalent in cash, in an amount sufficient, in the opinion of the Executive Director, to cover the cost of the removal and disposal of such substances, devices and contrivances by the Port District. The permit shall not become effective until after such faithful performance bond, or cash in lieu thereof, has been posted with and received by the Port District.
- (b) Permittee shall obtain a certificate from the County Health Department of the County of San Diego, the Atomic Energy Commission, or the Department of Health of the State of California, certifying that such substances, devices and contrivances are not and will not be injurious to

the life or health of persons for the duration of the time such substances, devices and contrivances will be in said harbor or upon property of the District.

- (c) Permittee shall agree to indemnify and save harmless the Port District, its officers and employees, from any and all claims for loss, liability or damage arising out of or in connection with the possession, transportation or handling of such substances, devices or contrivances by the permittee, its officers, agents or employees, howsoever caused, whether such loss, liability, or damage results, either directly or indirectly, from the acts, omissions or negligence of the permittee, its officers, agents or employees, in connection with the possession, handling or transportation of such substances, devices or contrivances within the harbor or upon property of the District, or otherwise.
- (d) Permittee shall file with the Board of Port Commissioners, approved as to form by the Port Attorney, a policy of public liability and property damage insurance, if required by the permit, in such amounts and form as the Executive Director shall specify, indemnifying the Port District, its boards, officers and employees, as their interest may appear under the terms and conditions of said permit. No permit shall be or become effective until after

such policy of public liability and property damage insurance, if required, has been received by the Port.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance 2355)

SECTION NO. 8.61 – RADIOACTIVE SUBSTANCES – PERMIT – AUTHORITY OF EXECUTIVE DIRECTOR

The Executive Director is hereby authorized and empowered to issue such permits, upon proper application being made to him therefor, and to provide therein such additional terms and conditions, not contrary to or inconsistent with any applicable, Federal, State or municipal laws or regulations relative to the handling, transporting, loading, discharging, stowing, storing, possession or retention of such substances, devices or contrivances, as in his discretion may be necessary or desirable in the interest of the health, safety or security of persons or property. The Executive Director is hereby authorized and empowered to refuse to issue a permit upon application being made therefor, when in his judgment the substances, devices or contrivances which are the subject of such application and which are proposed to be handled, transported, loaded, discharged, stowed, stored, possessed or retained, or otherwise brought into the harbor or upon property of the District, are or may be unreasonably or unduly dangerous or hazardous to the health, safety or security of persons or of property within said District.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.62 – RADIOACTIVE SUBSTANCES – PERMIT – APPLICATION

Applications for permits shall be in writing, shall be made as far as practicable in advance of the time required for use, and shall include a description of and the quantity, stowage, and such other pertinent information as may be required by the Executive Director, relative to the substances, devices or contrivances desired to be handled, transported, loaded, discharged, stowed, stored, possessed or retained in the harbor or upon property of the District.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.63 – RADIOACTIVE SUBSTANCES – PERMIT FEE

There shall be a fee of Twenty-Five Dollars (\$25.00), payable in advance, for each permit issued under this regulation.

(Enacted April 5, 1966 – Ordinance No. 216)

SECTION NO. 8.64 – RADIOACTIVE SUBSTANCES – COMPLIANCE WITH THE LAW

Permittee shall comply with and conform to any and all applicable rules and regulations promulgated by the Port District, and with and to the laws, rules and regulations of the United States of America and the State of California, and of any department or agency thereof. Failure to so comply by a permittee shall be cause for immediate revocation of such permit.

(Enacted April 5, 1966 – Ordinance No. 216)

SECTION NO. 8.65 – RADIOACTIVE SUBSTANCES – HANDLING – PERSONNEL RECORD

Every terminal operator, stevedore or other person employing personnel on property of the District where such personnel will handle or be in close proximity to radioactive substances or substances that may possibly be radioactive, or devices or contrivances that can be operated to produce ionizing radiation, shall keep and maintain a permanent record of the duration of the employment of such personnel and of the quantity and a maximum degree of radioactivity of such substances, devices or contrivances.

(Enacted April 5, 1966 – Ordinance No. 216)

SECTION NO. 8.66 – RADIOACTIVE SUBSTANCES – PROTECTION OF PERSONNEL

Every person who handles any radioactive substances or substances that may possibly be or may likely become radioactive or who comes into close proximity thereto on property of the District shall be provided with a radiological film badge or equivalent device adequate to record the extent of such radioactivity incurred by the wearer thereof and to afford a record thereof.

(Enacted April 5, 1966 – Ordinance No. 216)

SECTION NO. 8.67 – RADIOACTIVE SUBSTANCES – CONTINUED MOVEMENT

Every person who brings radioactive substances or substances that may possibly be radioactive, or devices or contrivances that can be operated to produce ionizing radiation, into the harbor or upon property of the District shall make provision, prior to the time such substances are brought into the harbor or upon the property of the District, for an assured means of transportation for the continued movement of such substances from property of the District.

(Enacted April 5, 1966 – Ordinance No. 216)

SECTION NO. 8.68 – RADIOACTIVE SUBSTANCES – CLEANING PORT FACILITIES

Every person who brings radioactive substances or substances that may possibly be radioactive, or devices or contrivances that can be operated to produce ionizing radiation, into the harbor or upon property of the District in quantities which are, in the opinion of the Executive Director, substantial, shall thoroughly wash down, cleanse, and obtain and record a reading of the residual radioactivity of any wharf, wharf premise, transit shed, structure, or of any vehicle or vessel, if such vehicle or vessel is to remain in or return to the harbor or property of the District, that may possibly be contaminated by contact or association with such substances, devices or contrivances.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.69 – RADIOACTIVE SUBSTANCES – REPORT OF BREAKAGE OR LOSS

Every person having the care, custody, control or possession of radioactive substances or substances that may possibly be or may likely become radioactive, in the harbor or upon property of the District, shall promptly report to the Executive Director the breakage or loss of any package or container of such substances upon any land or waters under the control of the Board of Port Commissioners, and it shall be unlawful for any such person to refuse, neglect or otherwise fail to make such report.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005- Ordinance No. 2355)

SECTION NO. 8.70 – RADIOACTIVE SUBSTANCES – QUANTITIES LIMITED

Radioactive substances or substances that may possibly be radioactive, or devices or contrivances that can be operated to produce ionizing radiation, shall be examined and certificated for entry into the harbor or upon property of the District, as hereinabove provided, prior to being brought into the harbor or upon property of the District, and such substances, devices and contrivances may be denied assemblage in the harbor or upon property of the District in excess of the quantities necessary to maintain continuity of loading operations at water front facilities, and every permit issued by the Executive Director hereunder shall so provide.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.71 – RADIOACTIVE SUBSTANCES – LABEL REQUIRED

Each and every package, box, barrel, carton, or any other object which contains or may possibly contain a radioactive substance, or a device or contrivance that can be operated to produce ionizing radiation, shall have displayed thereon a distinguishing label in such words and in such form as the Executive Director may prescribe.

(Enacted April 5, 1966 – Ordinance No. 216)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 8.72 – RADIOACTIVE SUBSTANCES – EXEMPTIONS

(Enacted May 10, 1966 – Ordinance No. 226)

(Deleted – September 6, 2005 – Ordinance No. 2355)

ARTICLE 9DEBARMENT**SECTION NO. 9.01 – DEFINITIONS**

(a) For purposes of this Section certain words and phrases used herein are defined as follows:

1. "Affiliate" – business entities, organizations, or individuals who either directly or indirectly:
 - a) control one another or have the power to control one another, or
 - b) are controlled by a third party or are subject to control by a third party. "Affiliates" include chief executive officers and members of boards of directors or their equivalents.
2. "Bidder" – any individual, organization, legal entity, company or affiliate responding to a Request for Proposal for any project distributed by the District.
3. "Claim" – any request or demand for money, property or services made to any employee, officer or agency of the San Diego Unified Port District.
4. "Contractor" – any individual or other legal entity that:
 - a) directly or indirectly, for example, through an affiliate, submits offers for or is awarded, or reasonably may be

expected to submit offers for or be awarded, a District contract; or

- b) conducts business or reasonably may be expected to conduct business with the District as an agent or representative of another contractor.

- 5. "Debarment" – action taken by the Board of Port Commissioners of District to exclude a contractor from contracting with the District for a reasonable, specified period.
- 6. "District" – the San Diego Unified Port District.
- 7. "Executive Director" – Executive Director of the San Diego Unified Port District.
- 8. "Hearing Officer" – the individual appointed by the District to hear the information presented by the contractor facing debarment.
- 9. "Knowing" and "Knowingly" – that with respect to information, a person does any of the following:
 - a) has actual knowledge of the information.
 - b) acts in deliberate ignorance of the truth or falsity of the information.
 - c) acts in reckless disregard of the truth or falsity of the information.

10. "Person" includes any natural person affiliate, corporation, firm, association, organization, partnership, limited liability company, business or trust.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.02 – GROUNDS FOR DEBARMENT, PUBLIC WORKS CONTRACTS

(a) In accordance with procedures set forth below, a bidder or contractor may be declared ineligible to bid on District procurement and public works contracts for a period not to exceed Three (3) years for any of the following reasons:

1. Two (2) or more claims of computational or other error in bid submission within a Two (2) year period;
2. Unjustified failure or refusal to timely provide or properly execute contract documents;
3. Unsatisfactory performance of contract;
4. Two (2) or more occasions within a Two (2) Year period of failure to submit bond or insurance documents acceptable to the District in the time periods required;
5. Unjustified refusal to properly perform or complete contract work or warranty performance;
6. Unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;
7. Conviction under a State or Federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;

8. Any offense or action which indicates a lack of business integrity and which could directly affect the reliability and credibility of performance of the contractor on future contracts with the District;
 9. Any debarment of the contractor by another governmental agency;
 10. Failure to timely submit accurate certified payrolls as required by law;
 11. Any serious safety violation, whether or not resulting in citation by OSHA or CALOSHA;
 12. Two (2) or more occasions in a Two (2) Year period of using an unauthorized/unlisted subcontractor;
 13. Conviction under Federal or State antitrust statutes involving public contracts or the submission of bid proposals for any corrupt practices involving the administration or award of a contract with the District;
or
 14. Permanent debarment of the bidder or contractor by another governmental agency.
- (b) Any person who commits any of the following acts shall be debarred as set forth in Subsection (a), above:
1. Knowingly presents or causes to be presented to an officer or employee of the District a false claim for payment or approval.

2. Knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by the District.
3. Conspires to defraud the District by getting a false claim allowed or paid by the District.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.03 – DEBARMENT PROCEDURE

- (a) The Chief Engineer or his/her designee shall conduct an investigation into the circumstances which may warrant debarment of any bidder or contractor.
- (b) After completing such investigation, the Chief Engineer or his/her designee shall determine whether sufficient facts exist to warrant debarment, and, if so, shall issue a Notice of Intent to Debar.
- (c) The bidder or contractor shall be provided with written notice of the proposed action and the reasons for the proposed action.
- (d) The bidder or contractor shall have Ten (10) calendar days from the date of issuance of the Notice of Intent to Debar to request in writing to the Executive Director a Hearing on the proposed debarment. If no such request is timely filed, the proposed action shall be final.
- (e) If a timely request is submitted, a Hearing shall be conducted no later than Ten (10) calendar days after the request is received. The bidder or contractor shall be notified in writing of the time and place of the Hearing.
- (f) The Hearing Officer shall be the Executive Director or his designee. The bidder or contractor may appeal the decision of the Hearing Officer to the Board of Port Commissioners. This appeal must be in writing and must be made no later than Five (5) working days after the Hearing Officer renders the decision.

- (g) The Hearing Officer shall base his decision on the record presented to him by the District and such information as the bidder or contractor may present. Strict rules of evidence shall not apply.
- (h) In the event of an appeal from the decision of the Hearing Officer, the Board of Port Commissioners shall consider the matter at a regularly scheduled meeting. The Board's consideration shall be limited to the record before the Hearing Officer. No new evidence may be submitted, and the Board's decision shall be final.

(Enacted May 26, 1998 – Ordinance No. 1980)

(Amended September 6, 2005 – Ordinance No. 2355)

SECTION NO. 9.04 – DEBARMENT PROCEDURES FOR MATERIALS, SUPPLIES, EQUIPMENT, INSURANCE OR PERSONAL SERVICE CONTRACTS

- (a) District contracts covered by this Section include materials, supplies, equipment, insurance, and personal services contracts entered into with the District.
- (b) Debarment procedures for materials, supplies, equipment, insurance or personal service contracts are the same as for public works and procurement contracts and are covered by Section 9.03, above.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.05 – GENERAL

- (a) A contractor's debarment shall be effective throughout the District. Debarment prohibits officers of the District and employees of all District departments from executing contracts with a debarred contractor. Debarred contractors shall be placed on a list maintained by the District Clerk in accordance with Section 9.06, below.
- (b) Debarment constitutes debarment of all divisions, affiliations, sub-groups or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The District may extend the debarment decision to include any affiliate of the contractor if the affiliate is:
1. specifically named, and
 2. given written notice of the proposed debarment and an opportunity to respond.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.06 – LIST OF DEBARRED CONTRACTORS

- (a) The Executive Director shall:
 - 1. Compile a current, consolidated list of all debarred contractors; said list shall be maintained by the Office of District Clerk;
 - 2. Periodically revise and distribute the list and issue supplements; and
 - 3. Establish procedures to provide for effective use of the debarred contractors' list, to ensure that the District does not solicit offers from or award contracts to anyone on the list.
- (b) The debarred contractors' list shall indicate:
 - 1. The names and addresses of all debarred contractors with cross references when more than one name is involved in a single action;
 - 2. The cause for the action; and
 - 3. The termination date for each listing.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.07 – EFFECT OF LISTING

- (a) Debarred contractors are excluded from receiving contracts, and District Departments shall not solicit offers from or award contracts to debarred contractors. Debarred contractors are also excluded from conducting business with the District as agents or representatives of other contractors.
- (b) After the opening of bids or receipt of proposals, the requesting department of the District shall review the list of debarred contractors.
- (c) Bids received from any listed contractor in response to an invitation for bids shall be recorded as received, and then rejected by reason of debarment.
- (d) Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive process during the period the contractor is on the list.
- (e) Immediately prior to award of a contract, the Executive Director of District or his designated representative shall again review the debarred contractors' list to ensure that no award is made to a listed contractor.
- (f) If because of inadvertence or misrepresentation on their part, the debarred contractor or affiliate is awarded a contract, the Executive Director reserves the right to cancel the contract and seek damages in the event performance has begun.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.08 – CONTINUATION OF EXISTING CONTRACTS

- (a) Immediately upon debarment, any existing contracts between the District and contractor shall be terminated.
- (b) Notwithstanding the foregoing, the Board of Port Commissioners may continue any contract in existence at the time the contractor is debarred upon advice from the Executive Director of District as to the effect of termination of the existing contract.

(Enacted May 26, 1998 – Ordinance No. 1980)

SECTION NO. 9.09 – SCOPE OF DEBARMENT

- (a) The fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individuals associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for, or on behalf of, the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.
- (b) The fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.
- (c) The fraudulent, criminal or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred, for, on approval of, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

(Enacted May 26, 1998 – Ordinance No. 1980)

ARTICLE 10STORMWATER MANAGEMENT AND DISCHARGE CONTROL**SECTION NO. 10.01 – TITLE, PURPOSE AND INTENT**

- (a) “Title”. This Article shall be known as "San Diego Unified Port District Stormwater Management and Discharge Control" and may be so cited.
- (b) “Purpose”. The purpose of this Article is to establish a defined set of requirements, protocols and procedures by which the District and users of District tideland resources may operate in compliance with State stormwater regulations. Further, it is the intent of this Article to protect the health, safety and general welfare of the public, tenants, and visitors within District jurisdiction; to protect water resources and to improve water quality; to cause the use of management practices by the District and its tenants and/or subtenants, and users of District tidelands to reduce the adverse effects of polluted runoff discharges on waters of the State to ensure compliance with the Municipal Separate Storm Sewer System (MS4) Permit Order No. R9-2013-0001 (NPDES No. CAS0109266) including any amendments, and any applicable State and Federal law. This Article seeks to promote these goals by:
 - 1. Effectively prohibiting no-stormwater discharges to the MS4;
 - 2. Prohibiting and eliminating all illicit discharges and illicit connections to the MS4, and reducing pollutants in discharges into

and from the MS4 to receiving waters, consistent with the prohibitions and limitations of the MS4 Permit;

3. Establishing minimum requirements for stormwater management, including source control requirements to prevent and reduce pollution;
4. Establishing site design requirements for development projects, to reduce stormwater pollution to the maximum extent practicable (MEP) and enhance existing water-dependent habitats;
5. Establishing standards for the use of off-site facilities and areas for stormwater management to supplement on-site practices at Priority Development Projects to meet post-construction BMP performance requirements;
6. Establishing notice procedures and standards for adjusting stormwater and non-stormwater management requirements where necessary;
7. Conforming with the Clean Water Act, the Porter-Cologne Water Quality Control Act, all applicable provisions of statewide Water Quality Control Plans and Policies adopted by the State Water Resources Control Board, the Water Quality Control Plan for the San Diego Basin adopted by the Regional Water Quality Control Board, and all other applicable State and Federal regulations; and

8. Establishing and identifying enforcement procedures.
- (c) “Intent”. The San Diego Unified Port District intends that this Article shall be the primary enforcement document for the management and discharge control of stormwater and urban runoff within District jurisdiction.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2018 – Ordinance No. 2931)

SECTION NO. 10.02 – DEFINITIONS

(a) For purposes of this Article:

1. “Beneficial Uses” – means the uses of water necessary for the survival or well-being of humans, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. "Beneficial Uses" of the waters of the State that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing beneficial uses are uses that were attained in the surface or ground water on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law.
2. “Best Management Practices” – means schedules of activities, pollution treatment practices or devices, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the

discharge of pollutants directly or indirectly to stormwater, receiving waters, or the stormwater conveyance system. Plans that describe the BMPs to be implemented and other steps to be taken by a Person using property held in trust by the District, as required by the Executive Director to meet all applicable stormwater requirements, including, but not limited to, the prohibitions and limitations of the MS4 Permit, may also be considered a BMP. Such plans may include, but are not limited to, Stormwater Pollution Prevention Plans, Construction BMP Plans, BMP Plans and Rain Event Plans. BMPs also include, but are not limited to, treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this Article.

3. “BMPs” – means Best Management Practices.
4. “BMP Design Manual for Permanent Site Design, Stormwater Treatment and Hydro modification Management” (BMP Design Manual) – means a programmatic level guidance document developed to eliminate, reduce, or mitigate the impacts of runoff from development projects, including Priority Development

Projects. The BMP Design Manual provides procedures for planning, selecting, and designing permanent stormwater BMPs based on the performance standards presented in the MS4 Permit Order No. R9-2013-0001. The BMP Design Manual replaces the Standard Urban Stormwater Mitigation Plan which was developed pursuant to the 2008 Municipal Stormwater Permit for San Diego County.

5. “Commercial Activity” – means any public or private activity involved in the production, storage, transportation, (including transport of person) distribution, exchange or sale of goods and/or commodities, or providing professional and/or non-professional services. These commercial activities do not include industrial activities, nor do they include any Federal, State, Municipal, or other government agency activities.
6. “Construction Activity” – means any activity involving the clearing, grading, and disturbances to the ground such as stockpiling, or excavation that results in land disturbance.
7. “Construction BMP Plan” – means a document which describes the BMPs to be implemented and other steps to be taken during the course of construction by the Discharger for projects that do not require coverage under the General Construction Stormwater Permit.

8. “CWA” – means the Federal Water Pollution Control Act, commonly known as the Clean Water Act.
9. “Development Projects” – means new development or redevelopment with land disturbing activities, structural development, including construction or installation of a building or structure, the creation of impervious surfaces, public agency projects.
10. “Discharge” – means any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid or solid substance.
11. “Discharger” – means any person or entity engaged in activities or operations which have resulted or have the potential to result in a discharge to the MS4 or receiving waters; or any person or entity leasing or owning property on which such activities, operations or facilities are located.
12. “Dry Season” – means the time period from May 1 through September 30.
13. “Environmentally Sensitive Areas” – means areas that include, but are not limited to, all CWA 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance; water bodies designated with the RARE beneficial use by the State Water Resources Control Board; areas designated as preserves or their

equivalent under the Multiple Species Conservation Program within the Cities and County of San Diego.

14. “Erosion” – means when land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via stormwater runoff. Erosion occurs naturally but can be intensified by land clearing activities such as farming, development, road building, and timber harvesting.
15. “ESA” – means Environmentally Sensitive Areas.
16. “Facility” – means a building, structure, installation or contiguous land, including but not limited to, terminals or parts of terminals, from which or to which a discharge could occur.
17. “General Construction Stormwater Permit” – means NPDES Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activities, and any modifications or amendments thereto, or as re-issued.
18. “General Industrial Stormwater Permit” – means NPDES Permit No., Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities, and any modifications or amendments thereto, or as re-issued.

19. “Grading” – means the cutting and/or filling of the land surface to a desired slope or elevation.
20. “Illicit Connection” – Means any man-made conveyance or drainage system through which a non-storm water discharge to the MS4 occurs or may occur or any connection to the MS4 which has not been reviewed and authorized by the District that conveys an illicit discharge.
21. “Illicit Discharge” – means any discharge or release into stormwater, the MS4, receiving waters, or land that is not composed entirely of stormwater except conditionally allowed discharges described in the MS4 Permit Order No. R9-2013-0001.
22. “Impervious Surface” – means any man-made, constructed or modified surface(s) that prevents or significantly reduces infiltration of water or precipitation into the underlying soil, resulting in runoff from the surface in greater volumes and/or at an increased rate, when compared to natural conditions prior to development. The term includes, but is not limited to, parking lots, driveways, streets, roadways, storage areas, rooftops, pavement, sidewalks, compacted gravel, compacted earth and oiled earth.
23. “Industrial Activity” – means any public or private activity which is associated with any of the eleven (11) categories of activities

defined in 40 CFR 122.26(b)(14) and required to obtain an NPDES permit, or other activities required to obtain an NPDES permit or Waste Discharge Permit for stormwater runoff control, and any facility used for conducting industrial activities.

24. “Industrial Discharger” – means a Discharger who conducts an Industrial Activities.
25. “Infiltration” – means the process of percolating stormwater or non-stormwater into the subsoil.
26. “Jurisdictional Runoff Management Plan” – means a written description of the specific jurisdictional runoff management measures and programs that each Copermittee will implement to comply with MS4 Permit Order No. R9-2013-0001 and ensures that pollutant discharges in urban runoff are reduced to the MEP and do not cause or contribute to a violation of water quality objectives.
27. “JRMP” – means Jurisdictional Runoff Management Plan.
28. “LID” – means Low Impact Development.
29. “Low Impact Development” – means a storm management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

30. Low Impact Development Best Management Practices (LID BMPs)
 - include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States through stormwater management and land development strategies that emphasize conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. LID BMPs include retention practices that do not allow runoff, such as infiltration, rainwater harvesting and reuse, and evapotranspiration. LID BMPs also include flow-through practices such as bio filtration that may have some discharge of stormwater following pollutant reduction.
31. “Maintenance of a BMP” – means regularly scheduled activities taken to uphold the as-designed performance of a BMP, and includes, but is not limited to, repairing and cleaning of the BMP as necessary, and replacement of the BMP by an equally effective or more effective BMP at the end of its useful life.
32. “Maximum Extent Practicable” – means the technology-based standard established by Congress in CWA Section 402(p)(3)(B)(iii)

that operators of MS4s must meet. MEP is further defined in Attachment C of the MS4 Permit Order No. R9-2013-0001.

33. “MEP” – means Maximum Extent Practicable.
34. “MS4” – means Municipal Separate Storm Sewer System.
35. “Municipal Separate Storm Sewer System” – means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels, or storm drains, by which urban runoff and stormwater may be conveyed to the receiving waters. The terms “MS4” and “Stormwater Conveyance System” may be used interchangeably.
36. “2008 Municipal Stormwater Permit” – means the San Diego County Municipal Storm Water Permit Order No. R9-2007-0001, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority that was in effect from 2007 through 2013.

37. “MS4 Permit” – means Regional Municipal Stormwater Permit Order No. R9-2013-0001 Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region as modified, amended or re-issued.
38. “Non-Stormwater” – means all discharges to and from a MS4 or to the receiving water that do not originate from precipitation events (i.e., all discharges from a MS4 other than stormwater). Non-stormwater includes illicit discharges, non-prohibited discharges, and National Pollutant Discharge Elimination System permitted discharges.
39. “National Pollutant Discharge Elimination System” – means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA.
40. “NPDES” – means National Pollutant Discharge Elimination System.
41. “Person” – means in this Article, an individual, association, partnership, corporation, limited liability company, trustee,

municipality, State or Federal agency, or any other legal entity, or agent or employee thereof.

42. “Point Source” – means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.
43. “Pollutant” – means any substance introduced to the MS4 that may cause or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of receiving waters may be affected.
44. “Pollution” – means the alteration of the quality of the receiving water or MS4 by waste, to a degree that unreasonably affects either the waters for beneficial use or facilities that serve these beneficial uses.
45. “Pollution Prevention BMP” – means practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control BMPs, treatment control BMPs, or disposal. Stormwater pollution prevention practices that are generally

recognized in the applicable industry or business as being effective and economically sound.

46. “Post-Construction BMPs” – means a subset of BMPs including structural and non-structural controls which detail, retain, filter, or educate to prevent the release of pollutants to surface waters during the functional life of developments.
47. “Priority Development Projects” – means new development and redevelopment projects defined in Provision E.3.b of the MS4 Permit.
48. “Receiving Waters” – means Waters of the United States.
49. “Redevelopment” – means the creation, addition, and/or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, the addition to or replacement of a structure, and creation or addition of impervious surfaces. Replacement of impervious surfaces includes any activity that is not part of the routine maintenance activity where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots and existing roadways; new sidewalk construction, pedestrian ramps, or bike

lanes on existing roads; and routine replacement of damaged pavement, such as pothole repair.

50. “RWQCB” – means the California Regional Water Quality Control Board for the San Diego Region.
51. “Sediment” – means soil, sand, and minerals washed from land into water from anthropogenic sources.
52. “Source Control BMP” – means land use or site planning practices, or structural or nonstructural measures that aim to prevent runoff pollution by reducing the potential for contamination at the source of pollution. Source control BMPs minimizes the contact between pollutants and runoff.
53. “Standard Urban Stormwater Mitigation Plan” – means a programmatic level guidance document developed to eliminate, reduce, or mitigate the impacts of runoff from development projects, including Priority Development Projects. The SUSMP was developed pursuant to the 2008 Municipal Stormwater Permit for San Diego County.
54. “Stormwater” – means stormwater runoff, snow melt runoff, and surface runoff and drainage.
55. “Stormwater Conveyance System” – this term is used interchangeably with MS4.

- 56. “Stormwater Pollution Prevention Plan” – means a document which meets the requirements set out in the General Construction Stormwater Permit, General Industrial Stormwater Permit, MS4 Permit, JRMP, or this Article. A SWPPP describes the BMPs to be implemented and other steps to be taken by the Discharger to meet the applicable stormwater requirements for a construction site, facility or for the use of property or resources held in trust by the District, as required by the Executive Director.
- 57. “SUSMP” – means Standard Urban Stormwater Mitigation Plan.
- 58. “SWPPP” – means Stormwater Pollution Prevention Plan.
- 59. “Stormwater Quality Management Plan” – means a plan developed to mitigate the impacts of urban runoff from Priority Development Projects that is in accordance with the MS4 Permit and District JRMP.
- 60. SWQMP – means Stormwater Quality Management Plan.
- 61. “Tenant” – means any person who enters into a lease agreement or a use permit agreement (including Tideland Use and Occupancy Permits, rental agreements, easements, licenses, and other similar types of agreements) with the District directly or indirectly as a subtenant to the primary leaseholder.

62. “Treatment Control BMP” – means any engineered system including BMPs that rely on either a physical condition (other than an entirely natural and undisturbed condition) or a constructed or installed device designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.
63. “Urban Runoff” – means all flows in a stormwater conveyance system and consists of the following components: stormwater (wet weather flows) and non-stormwater illegal discharge (dry weather flows).
64. “Urban Stormwater Mitigation Plan (USMP)” – means a plan developed to mitigate the impacts of urban runoff from Priority Development Projects that is in accordance with the 2008 Municipal Stormwater Permit.
65. “Waste” – includes sewage and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within the containers of whatever nature prior to, and for purposes of, disposal.
66. “Water Quality Control Plans” – means a document adopted by the State Water Resources Control Board that sets forth water quality

standards for surface water and groundwater, as well as actions to control nonpoint and point sources of pollution to achieve and maintain these standards.

67. “Water Quality Objective” – means numerical or narrative limits on constituents or characteristics of water to protect designated beneficial uses of the water. California's water quality objectives are established by the State and Regional Water Boards in the Water Quality Control Plans.
68. “Water(s) of the State” – means any water, surface or underground, including fresh and saline waters within the boundaries of the State (California Water Code Section 13050(e)). The definition of the waters of the State is broader than that for the Waters of the United States in that all water in the State is considered to be a water of the State regardless of circumstances or condition.
69. “Water(s) of the United States” – means water subject to the regulatory jurisdiction of the United States under the CWA and applicable case law.
70. “Watershed” – means that geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

71. “Wet Season” – means the time period from October 1 through April 30, also known as the rainy season.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2018 – Ordinance No. 2931)

SECTION NO. 10.03 – GENERAL PROVISIONS

- (a) “Construction and Application”. This Article is not intended to interfere with, abrogate or annul any other Article, rule or regulation, statute, or other provision of law. The requirements of this Article should be considered minimum requirements, and where any provision of this Article imposes restrictions different from those imposed by any other Article, rule or regulation, statute or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall take precedence.
- (b) “Compliance Disclaimer”. Full compliance by any person with the provisions of this Article shall not preclude the need to comply with other local, State or Federal statutory or regulatory requirements, which may be required for the control of the discharge of pollutants into stormwater and/or the protection of stormwater quality.
- (c) “Recycled Water”. This Article is not intended to prohibit or prevent the use of recycled water provided such use complies with this Article.
- (d) “Executive Director Authority”. The Executive Director is empowered to enforce the requirements of this Article, including, but not limited to, requiring Persons using property or resources held in trust by the District to prepare and implement BMPs to comply with this Article and to take other actions necessary to comply with this Article.

- (e) “District Permits and Approvals”.
1. An application and approval is required for development projects, tenant improvements and construction activity on tidelands. Applications and permits are also required for special events and temporary commercial or industrial activities.
 2. An application for any permits or approvals shall be accompanied by plans or documentation demonstrating how the applicable requirements of this Article will be met. No permit or approval shall be granted unless the decision maker determines that the application will comply with this Article.
 3. An application for any special event permit or approval shall be accompanied by a deposit to cover any costs or expenses to abate an Illicit Discharge or to repair any obstruction, damage or other impairment to the stormwater conveyance system
- (f) “Procedures, Forms and Documents”. The Executive Director may prepare, disseminate and maintain procedures, forms and other documents addressing the use of pollution prevention practices and BMPs and require their use for specific activities or Facilities. The District JRMP,

BMP Design Manual, and templates, are available at the District and on the District's website, www.portofsandiego.org.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2019 – Ordinance No. 2931)

SECTION NO. 10.04 – CONDITIONALLY ALLOWED NON-STORMWATER DISCHARGES

- (a) “Conditionally Allowed Non-stormwater Discharges”. The following are conditionally allowed non-stormwater discharges as defined in the MS4 Permit.
1. Any discharge or connection to the MS4 regulated under an NPDES permit issued to a Discharger and administered by the State of California pursuant to Division 7 of the California Water Code is allowed, provided that the Discharger is in compliance with all requirements of the NPDES permit and other applicable laws and regulations.
 2. Non-stormwater discharges to the MS4 from the following categories are allowed if the discharge has coverage under NPDES Permit No. CAG919001 (Order No. R9-2007-0034, or subsequent order) for discharges to San Diego Bay, or NPDES Permit No. CAG919002 (Order No. R9-2008-0002 or subsequent order) for discharges to surface waters other than San Diego Bay.
 - a) Uncontaminated pumped ground water;
 - b) Discharges from foundation drains;
 - c) Water from crawl space pumps; and

- d) Water from footing drains. When the system is designed to be located at or below the groundwater table to actively or passively extract groundwater during any part of the year.
- 3. Non-storm water discharges to the MS4 from water line flushing and Water main breaks are allowed if the discharges have coverage under NPDES Permit No. CAG679001 (RWQCB Order No. R9-2010-0003 or subsequent order), and the Discharger is in compliance with all requirements of that NPDES permit and other applicable laws and regulations. This category includes water line flushing and water main break discharges from water purveyors issued a water supply permit by the California Department of Public Health or federal military installations.
- 4. Discharges from recycled or reclaimed water lines to the MS4 are conditionally allowed if the discharges have coverage under an NPDES permit, and the Discharger is in compliance with the applicable NPDES permit and other applicable laws and regulations. Otherwise, discharges from water lines are illicit discharges.
- 5. Non-storm water discharges to the MS4 from the following categories are conditionally allowed, unless the District or the RWQCB identifies the discharge as a source of pollutants to

receiving waters, in which case the discharge is considered an illicit discharge.

- a) Discharges from diverted stream flows;
- b) Discharges from rising groundwater;
- c) Discharges from uncontaminated groundwater infiltration to the MS4;
- d) Discharges from springs
- e) Discharges from riparian habitats and wetlands;
- f) Discharges from potable water sources, except as set forth in Section 10.04(a) 3;
- g) Discharges from foundation drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-storm water discharges under unusual circumstances; and
- h) Discharges from footing drains when the system is designed to be located above the groundwater table at all times of the year, and the system is only expected to produce non-storm water discharges under unusual circumstances.

6. Non-storm water discharges from the following categories are conditionally allowed if they are addressed with BMPs. Otherwise, non-storm water discharges from the following categories are illicit discharges.
 - a) Air conditioning condensation;
 - b) Individual residential vehicle washing;
 - c) Water from swimming pools.
7. Non-storm water discharges to the MS4 from firefighting activities are conditionally allowed if they are addressed as follows:
 - a) Non-emergency firefighting discharges. Non-emergency firefighting discharges, including building fire suppression system maintenance discharges (e.g. sprinkler line flushing), controlled or practice blazes, training, and maintenance activities shall be addressed by BMPs to prevent the discharge of pollutants to the MS4;
 - b) Emergency firefighting discharges. BMPs are encouraged to prevent pollutants from entering the MS4. During emergencies, priority of efforts should be directed toward life, property, and the environment (in descending order). BMPs shall not interfere with emergency response operations or impact public health and safety.

- (b) Notwithstanding the categories of non-storm water discharges conditionally allowed in this section, if the RWQCB or the District determines that any of these categories of conditionally allowed non-storm water discharges are a source of pollutants to receiving waters, are a danger to public health or safety, or are causing a public nuisance, such discharges are prohibited from entering the MS4 and will be considered an illicit discharge.

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(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

SECTION NO. 10.05 – PROHIBITIONS

- (a) The following prohibitions apply to all persons and activities on land or waters within District jurisdiction.
1. “Illegal Discharges”. Except as provided in Section 10.04, it is unlawful for any Person to discharge non-stormwater to the MS4. It is unlawful to cause or contribute to any illicit discharge directly or indirectly into the MS4, receiving waters, or land except as conditionally allowed in this Article. It is unlawful for any Person to cause, either individually or jointly, any discharge into or from the MS4 that results in or contributes to a violation of the MS4 Permit.
 2. “Illicit Connection”. It is unlawful to establish, use or maintain an illicit connection to the stormwater conveyance system. This prohibition applies retroactively to connections made in the past, even if the connection was established pursuant to a valid permit and was legal at the time of the connection.
 3. “Waste and Pollutants Disposed on Land and in Water”. It is unlawful to release, discharge, place or deposit any substances, pollutants, or waste, on land or in the MS4 or elsewhere in the receiving waters except in such receptacles as may be provided by the District. It is unlawful to dispose of, or attempt to dispose of, waste by burying it in or under the earth or water.

4. “Flammable Materials”. It is unlawful to throw, deposit, leave, abandon, pump, or discharge oil, spirits, or any flammable liquid or material on District lands, in the MS4, or in receiving waters.
5. “Discharge of Excreta and Sewage”. It is unlawful to discharge, or cause or permit the discharge of excreta or sewage, except in designated pump-out stations or restroom facilities. It is unlawful to fail to properly connect any inhabited improvements to a sewage disposal system or sanitary sewer or to permit sewage seepage.
6. “Washing of Impervious Surfaces”. It is unlawful to discharge, cause or permit the discharge of untreated wash water from the washing of impervious surfaces.
7. “Wash Waters”. It is unlawful to discharge, cause or permit the discharge of untreated wash water or the washing of any floor coverings such as grates, mats or rugs from any commercial or industrial sites or activities, including but not limited to, restaurants, commercial fishing landings, gas stations, auto repair garages, or from other types of automotive or repair facilities, into the stormwater conveyance system or receiving waters.
8. “Irrigation Water Runoff”. It is unlawful to discharge, or cause or permit the discharge of irrigation water, including recycled water

used for irrigation, landscape irrigation, and lawn watering to the MS4 or receiving waters.

9. “Repair, Construction and Demolition Debris”. It is unlawful to deposit or abandon waste or building material of any description that has been generated during the repair, construction, or demolition of any structure or vessel. Upon the completion of any repair, construction or demolition, all Dischargers shall gather up and haul away all waste of every nature and return the land to a condition equal to or better than its original condition, at their sole cost and expense.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

SECTION NO. 10.06 – BEST MANAGEMENT PRACTICE REQUIREMENTS

(a) “Applicability”. Every Person undertaking any activity or use of a premise or facility which may cause or contribute to stormwater pollution, illicit discharges, or non-stormwater discharges, shall comply with the BMP guidelines or pollution control requirements as established by this Article and the JRMP.

1. “Minimum BMPs for All Persons”. All Persons must install, implement and maintain the following minimum BMPs.

- a) Pollution Prevention BMPs. Stormwater pollution prevention practices that are generally recognized in the applicable industry or business as being effective and economically sound or as described in the JRMP must be implemented.
- b) Proper Use of Materials. All materials with the potential to pollute urban runoff (including but not limited to cleaning and maintenance products used outdoors, fertilizers, pesticides and herbicides) shall be used in accordance with label directions or material safety data sheets.
- c) Storage of Materials and Waste. All materials and wastes with the potential to discharge to the MS4 or receiving waters shall be stored in a manner that either prevents

contact with stormwater or contains contaminated runoff for treatment and disposal.

2. “Minimum BMPs for All Facilities and Activities”. All facilities and/or activities identified in this Subsection must implement and maintain the BMPs applicable to that facility or activity as identified in the JRMP, as required by the Executive Director, as required by applicable NPDES Permits, as required by other state or federal law or, for Priority Development Projects, the BMP Design Manual.
 - a) Commercial Facilities and Activities. Commercial facilities and activities must meet the applicable requirements of this Article and the JRMP. This includes, but is not limited to, compliance with all prohibition requirements and minimum BMPs specified in the JRMP for commercial activities.
 - b) Industrial Facilities and Activities. Facilities and activities subject to the General Industrial Stormwater Permit must install, implement and maintain any additional BMPs required by that Permit in addition to the BMPs required in the JRMP.
 - c) Construction Activities. Construction activities must meet the applicable requirements of this Article and the JRMP. This includes, but is not limited to, compliance with all prohibition requirements and minimum BMPs specified in the JRMP for

construction activities. Those facilities and activities also subject to the General Construction Stormwater Permit must install, implement and maintain any additional BMPs required by that permit and meet documentation, permit registration and permit close-out requirements of that permit.

- (b) “Maintenance of BMPs”. Every person undertaking any municipal, construction, commercial or industrial activity, development, or any activity or use of a facility shall maintain the BMPs necessary to achieve and maintain compliance with this Article. The tenant(s) and operators of lands on which treatment control BMPs, including but not limited to temporary and post-construction BMPs, have been installed to meet the requirements of this Article or the JRMP shall ensure the maintenance of those BMPs at all times. Maintenance of a BMP may be transferred with the following conditions.

1. The District or another public entity may accept responsibility for maintenance of any BMP, under such conditions as the District or other public entity determines are appropriate. Where a maintenance obligation is proposed by a public entity other than the District, the District shall be involved in the negotiations with that agency, and in negotiations with the other agencies responsible for issuing permits for the construction and/or maintenance of the BMP. In these instances, the District must be identified as a third

party beneficiary empowered to enforce any such maintenance agreement.

2. Any Discharger who transfers ownership of a BMP or responsibility for the maintenance of a BMP to another Discharger shall provide written notice of the maintenance obligations associated with that BMP to the District and any new or Additional responsible party prior to that transfer. No transfer of ownership of a BMP or transfer of maintenance responsibilities to a new responsible party may occur without District approval and signed acknowledgements from all parties involved with the transaction.
3. “Inspection, Repair and Upgrading of Treatment Control BMPs”. The Discharger must regularly inspect any treatment control BMPs at manned and unmanned facilities to verify that they are functioning as designed. Inspections must be performed at least once a year. The Discharger must repair any treatment control BMPs that fail as soon as it is safe to do so. If the failure of such a BMP indicates that the BMPs in use are inappropriate or inadequate to the circumstances, the Discharger must modify or upgrade the BMPs to prevent any further failure in the same or similar circumstances.

4. “Documentation of BMP Maintenance and Inspection of Treatment Control BMPs”. The Discharger must maintain inspection records and documentation of routine maintenance and report of the treatment control BMPs at their facility. Inspection records and documentation of maintenance must be made available to the District upon request.
- (c) “Stormwater Plan Compliance”. Whenever a SWPPP, Construction BMP Plan, or other plan is required, the Executive Director may require consideration of District documents when determining which BMPs to include in the proposed plan(s) to prevent or reduce pollution. Any person required to prepare a SWPPP or Construction BMP Plan or other plan shall install, implement and maintain the BMPs identified in the plan for the life of the project or the duration of the pollutant generating activities. Such plans may be required for:
1. “NPDES Permits”. Any Discharger that owns or operates industrial facilities or activities subject to the General Industrial Stormwater Permit shall prepare and maintain on site an up-to-date SWPPP as required by the applicable NPDES Permit. Any Discharger that owns or operates construction activities subject to the General Construction Stormwater Permit shall prepare and maintain on site

an up-to-date SWPPP as required by the applicable NPDES Permit.

2. “District Requirements”. In addition to any other authority provided in this Article 10, the Executive Director may require any person to prepare, submit and implement a SWPPP, Construction BMP Plan or other plan if:
 - a) A person proposes to undertake any construction activities, whether or not such activity is subject to the General Construction Stormwater Permit;
 - b) A person does not come into compliance with this Article after one or more warnings or other enforcement actions in response to inadequate implementation or maintenance of BMPs;
 - c) The facility or activity at issue is a source of pollutants to receiving waters despite compliance with this Article; or
 - d) To ensure compliance with the MS4 Permit.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2018 – Ordinance No. 2931)

SECTION NO. 10.07 – INSPECTION AND MAINTENANCE OF STORMWATER CONVEYANCE LATERALS, SEWER LATERALS, AND ON-SITE WASTEWATER SYSTEMS

(a) “Inspection and Maintenance of Stormwater Conveyance Laterals, Sewer Laterals and On-site Wastewater Systems”. Stormwater conveyance laterals shall be cleaned, maintained and replaced when necessary to prevent seepage and spills. Sewer laterals shall be cleaned, maintained and replaced when necessary to prevent seepage and spills. On-site wastewater systems shall be pumped, maintained, and modified or replaced when necessary to prevent spills.

1. “Spills”. Any spill or release from the failure of a stormwater conveyance lateral, sewer lateral or on-site wastewater system shall be contained and cleaned-up in a manner that minimizes any release of pollutants.

2. “Damaged or Failed Systems”. Damaged or failed stormwater conveyance laterals, sewer laterals or on-site wastewater systems shall be repaired or replaced, after obtaining all required permits and approvals.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

SECTION NO. 10.08 – MONITORING AND REPORTING REQUIREMENTS

- (a) “Applicability”. All Dischargers shall comply with this Section.
- (b) “Reporting of Spills, Releases and Illicit Discharges”. The Discharger shall report spills, releases, and illicit discharges to the stormwater conveyance system or to receiving waters to the District upon discovery and as otherwise required by applicable State and Federal laws, rules or regulations. The Discharger shall provide copies to the District of any and all communications between the Discharger and any other government agency upon request. If safe to do so, the Discharger shall take immediate action to contain and minimize the spill, release or illicit discharge.
- (c) “Monitoring”. Any Discharger required to sample, test, monitor, and report shall make the results of such activities available to the District upon request at the Discharger’s sole expense. Sampling, testing, monitoring, and reporting may be required for:
 - 1. “NPDES Permits”. Discharges subject to the General Industrial Stormwater Permit and the General Construction Stormwater Permit shall perform the sampling, testing, monitoring and reporting required by the applicable NPDES Permit.
 - 2. District Requirements. Whenever a SWPPP, Construction BMP or other plan is required, the Executive Director may require the Discharger to perform sampling, testing, monitoring and reporting.

3. “District Orders”. The Executive Director may order a Discharger to conduct testing or monitoring and to report the results to the District at the Discharger’s sole expense if:
 - a) The Executive Director determines that testing or monitoring is needed to determine whether BMPs are effectively preventing or reducing pollution in stormwater as required by this Article, or to determine whether the facility is a significant source of pollutants to receiving waters;
 - b) The Executive Director determines that testing or monitoring is needed to assess the impacts of a spill or illicit discharge;
 - c) A spill or illicit discharge has not been eliminated after written notice by the Executive Director;
 - d) Repeated violations have been documented by written notices from the Executive Director; or
 - e) The RWQCB requires the District to provide any information related to the Discharger's activities
- (d) “Testing”. The Executive Director may determine the manner in which any testing and monitoring must occur, and may determine when required sampling, testing or monitoring may be discontinued. Testing and monitoring ordered may include the following:

1. Visual monitoring of dry weather flows, wet weather erosion, and/or BMPs;
 2. Visual monitoring of premises for spills or discharges;
 3. Laboratory analyses performed by a California State Certified Laboratory of stormwater or non-stormwater discharges for pollutants;
 4. Background or baseline monitoring or analysis; and
 5. Monitoring of receiving waters or sediments that may be affected by pollutant discharges by the Discharger (or by a group of Dischargers including the Discharger).
- (e) “Reporting of Testing Results”. The Executive Director may determine the manner in which the results of any testing and monitoring are reported.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2018 – Ordinance No. 2931)

SECTION NO. 10.09 – DEVELOPMENT AND REDEVELOPMENT PROJECTS

- (a) “Applicability”. The following requirements are applicable to all development and redevelopment activities.
- (b) “Post-Construction BMP Requirements for all development projects”. Development and redevelopment projects as defined in the BMP Design Manual shall be designed to include and shall implement post-construction BMPs consistent with the BMP Design Manual. Post-construction BMPs must ensure that pollutants and runoff from the development will be reduced to the MEP, will not significantly degrade receiving water quality, and will not cause or contribute to an exceedance of receiving water quality objectives.
- (c) “BMP Operation and Maintenance Verification”. Annual written verification of effective operation and maintenance of each approved treatment control BMP by the Discharger is required to be submitted to the District at the Discharger’s sole expense prior to each wet season.
- (d) Any proposed alteration or construction activity to a development project where post-construction BMPs had been previously installed must evaluate whether the proposed alteration or construction activity will impact the original design, intent, or pollutant removal effectiveness of the post-construction BMP at the site. Any proposed impacts to post-construction BMPs must be addressed either by replacement or upgrade

as required to meet the conditions of the development project approval, the JRMP, or this Article.

- (e) “Priority Development Projects”. Priority Development Projects are subject to structural BMP requirements as defined in the BMP Design Manual. All Priority Development Projects (including ministerial projects) shall be designed using the methods described in the BMP Design Manual and shall include all applicable studies and reviews required by the BMP Design Manual.
1. “Priority Development Project BMP Requirements”. All priority development projects shall implement the post-construction BMPs unless they have provided a written determination, to the satisfaction of the District that said BMPs are not applicable or feasible.
 2. “Stormwater Quality Management Plan”. All Priority Development Projects shall develop a SWQMP and submit the plan for the District’s review and approval. The SWQMP must reflect the actual constructed condition of the Priority Development Project.
 3. “Priority Development Project BMP Requirements”. All Priority Development Projects shall implement post-construction BMPs consistent with the BMP Design Manual unless they have provided

a written determination, to the satisfaction of the District that said BMPs are not applicable or feasible.

- (f) “Post-Construction BMP Operations and Management Plan”. All applications for a permit or approval associated with a development or redevelopment project subject to structural treatment control must be accompanied by a post-construction operations and management plan specified by the District. The plan shall specify the manner in which the applicant will implement the post-construction BMPs required by this Article.
- (g) “Stormwater Management Plan Review Deposit”. The District may require a monetary deposit to pay the estimated reasonable costs for the review of any development or redevelopment project proposal for compliance with this Section. Such a monetary deposit must be approved by the Board of Port Commissioners prior to implementation.
- (h) “Alternative Compliance for Priority Development Projects”. Pursuant to Provision E.3.c.(3) of the MS4 Permit, the District may authorize the use of off-site facilities and areas for stormwater management to supplement on-site BMPs at Priority Development Projects as an alternative compliance measure to meet post-construction BMP performance requirements. The applicant must meet all the terms and conditions of the District alternative compliance approval within the required timeframe.

- (i) Waivers. Principal permits or approvals sought for a project otherwise subject to this Section may be waived if the Executive Director determines that compliance would be infeasible.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

SECTION NO. 10.10 – OTHER ACTS AND OMISSIONS THAT ARE VIOLATIONS

The following acts and omissions are violations of this Article:

- (a) “Causing, Permitting, Aiding or Abetting Non-Compliance”. It is unlawful to cause, permit, aid or abet non-compliance with any part of this Article.
- (b) “False Statements, Misrepresentation and Concealment”. It is unlawful to make any false statement or misrepresentation to the District or its agents concerning compliance with this Article. False statements or misrepresentations may include, but are not limited to, any misrepresentation in a voluntary disclosure, any submission of a report that omits required material facts without disclosing such omission, and any withholding of information required to be submitted by or pursuant to this Article. It is unlawful to conceal a violation of this Article.
- (c) “Failure to Promptly Correct Non-Compliance”. Violations of this Article must be corrected as soon as practical or within the time period specified by the Executive Director. Each day or part thereof that action necessary to correct a violation is not initiated and diligently pursued is a separate violation.
- (d) “Continued Non-Compliance”. A separate violation may be considered to have taken place for each day of non-compliance with this Article exists.

- (e) “Permits, Approvals and SWPPPs”. It is unlawful to fail to conform with an applicable SWPPP, Construction BMP Plan or another plan required pursuant to this Article or fail to comply with urban runoff-related provisions in any other District permit or approval.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

(Amended October 9, 2018 – Ordinance No. 2931)

SECTION NO. 10.11 – INSPECTIONS

- (a) “Authority to Inspect”. The Executive Director is authorized to inspect activities and facilities, whether or not occupied, at reasonable times, in a reasonable manner, and with reasonable notice to carry out the purposes of this Article or any applicable statute, rule, code or regulation enforceable by the District.
- (b) “Scope of Inspections”. Inspections may include any and all actions necessary to determine compliance with this Article. Inspections may include, but may not be limited to sampling, taking measurements, metering, and placing devices necessary to sample, monitor, meter, record, visually inspect and review records. When samples are collected, the owner or operator may request and receive split samples. Records, reports, analyses, or other information required under this Article may be inspected and copied, and photographs taken to document a condition and/or a violation of this Article.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

SECTION NO. 10.12 – ENFORCEMENT

Violations of this Article may be deemed a threat to public health, safety and welfare, and the environment and are identified as public nuisances. The Executive Director may enforce this Article and abate public nuisances in his or her discretion as follows:

- (a) “Administrative Authorities”. Written and/or verbal orders may be issued to stop any action in violation of this Article or any applicable statute, rule, code or regulation enforceable by the District, including but not limited to the elimination of illicit discharges or the removal of illicit connections.
 - 1. “Administrative Citation”. An Administrative Citation may be issued, and civil penalties may be imposed pursuant to Section O. II (i). Administrative citations may be issued to discipline a Discharger for violations of this article, to require abatement, corrective, remedial, and/ or mitigation activities, including but not limited to any of those listed in Section 10.06 or any applicable statute, rule, code or regulation enforceable by the District. All required actions must be performed within a reasonable period of time as determined by the Executive Director. An Administrative Citation may also be issued to abate any public nuisance created by or resulting from a violation of this Article, including summary abatement. All costs to detect and

abate any such public nuisance shall be borne by the violator and/ or the tenant of the premises on which the public nuisance exists.

2. “Stop Work Orders”. Whenever any work is being done contrary to the provisions of this Article, or any applicable statute, rule, code or regulation enforceable by the District, the Executive Director may order the work stopped by notice in writing, served on any person performing the work or causing such work to be done, and any such person shall immediately stop such work until authorized by the Executive Director to proceed. Any challenge to the abatement costs or the necessity of manner of abatement shall be resolved through the hearing procedures in Section 0.11(i).
3. “Summary Abatement”. If the Executive Director determines that a public nuisance exists and immediate action is necessary to preserve or protect the public health or safety, the District may summarily abate the nuisance by any reasonable means without notice or hearing. Any challenge to the abatement costs or the necessity or manner of abatement shall be resolved through the hearing procedures in Section 0.11(i).
4. “Permit Suspension and Renovation”. Violations of this Article or any applicable statute, rule, code or regulation enforceable by the District may be grounds for suspension, revocation or modification

of any permit, license or approval. Suspensions and revocations shall occur in accordance with the hearing procedures in Section 0.11(i).

(b) “Judicial Authorities”.

1. “Injunctive or Declaratory Relief”. Any violation of this Article or any applicable statute, rule, code or regulation enforceable by the District may be enforced by a judicial action for injunctive or declaratory relief.
2. “Civil Penalties and Remedies”. The District may file actions in Superior Court to enforce this Article or any applicable statute, rule, code or regulation enforceable by the District, seeking civil penalties and/or other remedies as provided in this Section and in Section 10.12. There is no requirement that administrative enforcement authorities be used before such actions are filed.
3. “Criminal Arrest”. The assistance of a peace officer may be enlisted to arrest violators as provided in California Penal Code, Ordinances 5, 5c, 5d of Title 3, Part 2 (or as amended) and/or a citation and notice to appear as prescribed in Ordinance 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as amended) may be issued. There is no requirement that administrative enforcement authorities be used before such actions are filed. The immunities

prescribed in Section 836.5 of the Penal Code are applicable to the Executive Director and his or her designees acting in the course and scope of their employment pursuant to this Article.

- a) “Administrative Penalties”. Administrative penalties may be imposed pursuant to District Code Section 0.11(i). Any later-enacted administrative penalty provision in the District Code shall also be applicable to this Article, unless otherwise provided therein.
- b) “Criminal Penalties”. Criminal penalties may be imposed pursuant to District Code Section 0.11.
 - 1) Misdemeanor. Non-compliance with any part of this Article constitutes a misdemeanor and may be enforced and punished as prescribed in Section 0.11 and any other applicable statute, rule or regulation.
 - 2) Infraction. The Executive Director may charge any violation of this Article as an infraction at his or her discretion. Infractions may be abated as a nuisance or enforced and punished as prescribed in Section 0.11 and any other applicable statute, rule or regulation.

- c) “Civil Penalties”. The following may be awarded without monetary limitation in any civil action, except where a maximum monetary amount is specified.
 - 1) Injunctive relief;
 - 2) Costs to investigate, inspect, monitor, survey or litigate;
 - 3) Costs to place or remove soils or erosion control materials, to correct any violation, and to repair environmental damage or to end any other adverse effects of a violation;
 - 4) Compensatory damages for losses to the District or any other plaintiff caused by violations; and/or restitution to third parties for losses caused by violations;
 - 5) Civil penalties in accordance with District Code Section 0.11(i); and
 - 6) Attorney fees and court costs as permitted by law
- d) Cost Recovery. The Executive Director may impose a monetary penalty without limitation to recover the costs, including staff time and materials, to investigate or monitor

any violation of this Article.

- e) **Attorney Fees.** In any action, administrative proceeding or special proceeding to enforce this Article and abate a nuisance, the prevailing party may recover attorney fees if, at the initiation of the action or proceeding, the District elects to seek recovery of its own attorneys' fees. In no event shall the award of attorney fees to the prevailing party exceed the amount of reasonable attorney fees incurred by the District in the action or proceeding.
- f) **Penalties and Remedies Not Exclusive.** Penalties and remedies under this Article may be cumulative and in addition to other administrative, civil, or criminal remedies.

(Enacted July 25, 2000 – Ordinance No. 2105)

(Amended December 11, 2007 – Ordinance No. 2475)

(Amended May 12, 2015 – Ordinance No. 2815)

ARTICLE 11REGULATIONS OF NEWSRACKS ON PORT DISTRICT TIDELANDS**SECTION NO. 11.01 – FINDINGS AND PURPOSE**

(a) The San Diego Unified Port District ("the District") makes the following findings:

1. The uncontrolled proliferation, placement and maintenance of Newsracks (as defined in Section 11.02 below) in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.
2. Newsracks which disseminate Publications so located as to cause an inconvenience or danger to persons using public rights-of-way, and unsightly Newsracks located therein, constitute public nuisances.
3. Newsracks that are not reasonably maintained in a neat and clean condition threaten the general welfare, including the aesthetic appearance, of the public rights-of-way. Because the desirability of the District as a place to visit and do business is partly dependent on maintaining high quality views, such blight could have serious economic consequences.

4. Without regulations, the placement of Newsracks may block pedestrian access to the tidelands and other areas of the District. Unregulated Newsracks may also decrease access to sidewalks, poles, posts, traffic signs and signals, hydrants, mailboxes, and locations used for public transportation purposes. This in turn can lead to the deterioration of facilities or higher maintenance costs.
5. Unregulated Newsracks threaten public safety by presenting hazards to both pedestrians and drivers.
6. Additional regulations specific to the North Embarcadero are necessary to protect the public health and safety, general welfare and aesthetics of the District, as well as the District's economic investments. Specifically, the North Embarcadero area of the District is undergoing redevelopment at a cost in excess of \$28 million. The revitalization plan envisions the North Embarcadero as San Diego's "front porch" with a clear pedestrian orientation allowing for visitors to celebrate the San Diego Bay. All structures are to be designed to minimize blockage of views to the waterfront and must make provisions for the continuity of public access. The specifics of the plan call for: (1) development of access to the waterfront; (2) further development of the already existing pedestrian promenade and bike path; (3) development of hotels,

restaurant and entertainment facilities; and (4) development of a home port cruise ship terminal including customs and immigration facilities. The District has in some years received over 500,000 passengers annually just from cruise ships and has had over 900,000 visitors in total annually. With the redevelopment of the North Embarcadero area, this number is expected to increase.

7. Aesthetics, pedestrian access, and safety can be controlled by regulating the number, size, construction, placement, and appearance of the Newsracks without limiting public access to the Publications.
8. The locational requirements contained in these regulations do not unreasonably restrict the dissemination of constitutionally protected speech, including Publications. A sufficient and reasonable number of alternative locations for the distribution of Publications are provided for by these regulations. Of important note, these regulations do not serve as a total prohibition on all Newsracks but rather restrict the total number of Newsracks in certain designated areas. Ample locations for Newsracks on District property remain pursuant to these regulations, including in the redeveloped North Embarcadero area. Prior to the enactment of these regulations, many of the Newsracks placed on District property were not in use,

further evidencing that setting some limitations on the location and/or numbers of Newsracks still provides for ample locations. Further, Newsracks can be placed on property adjacent to District property, and while the District encompasses approximately 2,500 acres of waterfront property, its configuration as a narrow band around the water means that Newsracks may be available in adjacent areas just a short distance away. Finally, the Board of Port Commissioners takes note of the proliferation of the news and other information on the Internet, satellite television and direct television, and that these various media also provide alternative avenues of communication. The emergence of the Internet brings with it a virtually unlimited additional source of news, and other information available to interested persons in every community. Publications no longer have to be physically located in a specific jurisdiction to be available in the community.

9. The above findings establish that the unreasonable interference with and obstruction of public rights-of-way by unregulated Newsracks is injurious to public health, safety and welfare, offensive to the senses, and such an obstruction of the free use of property as to interfere in the comfortable enjoyment of life and property by the entire community. The use of such public rights-of-

way is nevertheless so historically associated with the sale and distribution of Publications that access to those areas for such purposes should not be absolutely prohibited.

10. Rather, these strong and competing interests require a reasonable accommodation, which can be satisfactorily achieved through the means of this Article which is designed to accommodate such interests regulating the time, place and manner of using Newsracks.
11. The Board of Port Commissioners in enacting this Ordinance does hereby take legislative notice of the various decisions of the United States Supreme Court including but not limited to, *Los Angeles v. Taxpayers For Vincent*, 466 U.S. 789 (1984); *Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750 (1988); *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410 (1993); *Cox v. New Hampshire*, 312 U.S. 569 (1941); decisions of the Ninth Circuit including *Honolulu Weekly, Inc. v. Harris*, 298 F.3d 1037 (9th Cir. 2002); decisions from other circuits including, *Gold Coast Publications, Inc. v. Corrigan*, 42 F.3d 1336 (11th Cir. 1994); *Sentinel Communications Co. v. Watts*, 936 F.2d 1189 (11th Cir. 1991); *Jacobsen v. Harris*, 869 F.2d 1172 (8th Cir. 1989); *Chicago Observer, Inc. v. City of Chicago*, 929 F.2d 325 (7th Cir. 1991); and

Globe Newspaper Co. v. Beacon Hill Architectural Comm'n, 100 F.3d 175 (1st Cir. 1996); decisions of the California Supreme Court including, Kash Enterprises v. City of Los Angeles, 19 Cal.3d 294 (1977); and decisions from district courts including, Napa Valley Publishing Co. v. City of Calistoga, 225 F.Supp.2d 1176 (N.D. Cal. 2002).

- (b) The purpose of the Board of Port Commissioners in enacting this Ordinance is to secure and promote the public health, safety, and welfare of persons within the District in their use of Public rights-of-way through the regulation of placement, appearance, number, size, and servicing of Newsracks on the Public rights-of-way so as to:
1. Provide for pedestrian and driving safety and convenience;
 2. Restrict the unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress to, or egress from, any place of business, the street to the sidewalk, or any legally parked or stopped vehicle;
 3. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs and signals, hydrants, mailboxes, and similar appurtenances, and access to locations used for public transportation purposes;

4. Eliminate Newsracks that may result in a visual blight on the public rights-of-way, or that may unreasonably detract from the aesthetics of surrounding properties, adjacent businesses, store window displays, adjacent landscaping and other improvements;
 5. Maintain and protect the values of surrounding District tidelands;
 6. Maintain and protect the investment in, and aesthetics of, the revitalization plan for the North Embarcadero area;
 7. Reduce exposure of the District to personal injury or property damage claims and litigation; and
 8. Protect the right to distribute Publications through Newsracks as guaranteed by the United States and California Constitutions.
- (c) It is not the intent of this Article to in any way discriminate against, unduly regulate, or interfere with the publication, circulation, distribution, or dissemination of any material that is constitutionally protected.
- (d) It is not the intent of these provisions to regulate the placement of Newsracks on private property. It shall remain the responsibility of the Permittee to determine the property lines and ensure Newsracks are placed within the public rights-of-way in compliance with this Article.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.02 – DEFINITIONS

For the purpose of this Article, unless the context clearly requires otherwise, the words and phrases used herein shall have the following meanings:

"Class I" means class designation of District land as defined in the Port Master Plan that applies to shoreline areas proposed for or developed by the District for public recreational purposes.

"Class II" means class designation of District land as defined in the Port Master Plan that applies to undeveloped shoreline property.

"Class III" means class designation of District land as defined in the Port Master Plan that applies to leased, developed shoreline areas upon which private or public investment has constructed commercial facilities, as well as the adjacent rights-of-way, including sidewalks.

"Class IV" means class designation of District land as defined in the Port Master Plan that applies to non-recreational areas developed with public or private funds to accommodate industrial activities and sea or air transportation facilities.

"Combination Dispenser" means a common structure housing two or more Newsracks and is subject to the same standards and regulations as a Newsrack, unless otherwise stated in this Article.

"District Owned Shared Newsrack" means a single Newsrack housing more than one publication and is subject to the same standards and regulations as a Newsrack, unless otherwise stated in this Section. District Owned Shared Newsracks will initially

be placed in the North Embarcadero but may eventually be expanded to other areas of the District.

"District Tidelands" means the tidelands administered by the District, as defined in Harbors & Navigation Code, Appendix I.

"Driveway" means a path from motor vehicles leading from a street or road.

"Executive Director" means the Executive Director of the San Diego Unified Port District or his or her designee.

"Hearing Officer" means Vice President of the District or other competent Person with a background in law or the dissemination of Publications, as defined herein, retained by the District to hear disputes on an as needed basis.

"Newsrack" means any self-service or coin-operated box, container, storage unit or other dispenser that rests or projects, in whole or in part, in or upon any portion of a Public Right-of- way, and is placed, used, or maintained for the display, distribution, or sale of any Publication listed in the permit granted under this Article. Unless otherwise stated in this Article, the term Newsrack includes Combination Dispenser, Newsrack Cluster, and District Owned Shared Newsrack, and the same standards and regulations shall apply to all Newsracks and any variant thereof.

"Newsstand" means a shop or open booth where any Publications are sold.

"Newsrack Cluster" means any combination Newsracks placed immediately adjacent to each other and is subject to the same standards and regulations as a Newsrack, unless otherwise stated in this Article.

"North Embarcadero" means the area bordered by Navy Pier on the south, "B" Street Pier on the north; from the Bulkhead line at the "B" Pier, east 195ft. and from the Bulkhead line at Navy Pier east 175ft. (as detailed in the attached exhibit).

"Parkway" means the area between the sidewalk and the curb of any street, and where there is no sidewalk, the area between the edge of the Roadway and the property line adjacent thereto. "Parkway" shall also include any area within a Roadway that is not open to vehicular travel.

"Publications" means any printed work offered for sale or distribution including but not limited to newspapers, news periodicals, magazines, periodicals, booklets, brochures, leaflets, handbills, or other written material.

"Permittee" means the Person or entity who receives a permit to place, use, and maintain A Newsrack on a Public right-of-way.

"Person" means any person or persons, or entity including, but not limited to, a corporation, partnership, unincorporated association or joint venture.

"Port Master Plan" means the Master Plan adopted by the Board of Port Commissioners in 1980, as modified and certified by the California Coastal Commission in 1981, and as subsequently modified and/or amended.

"Public Right-of-way" means any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection. parkway, highway, alley, lane, mall,

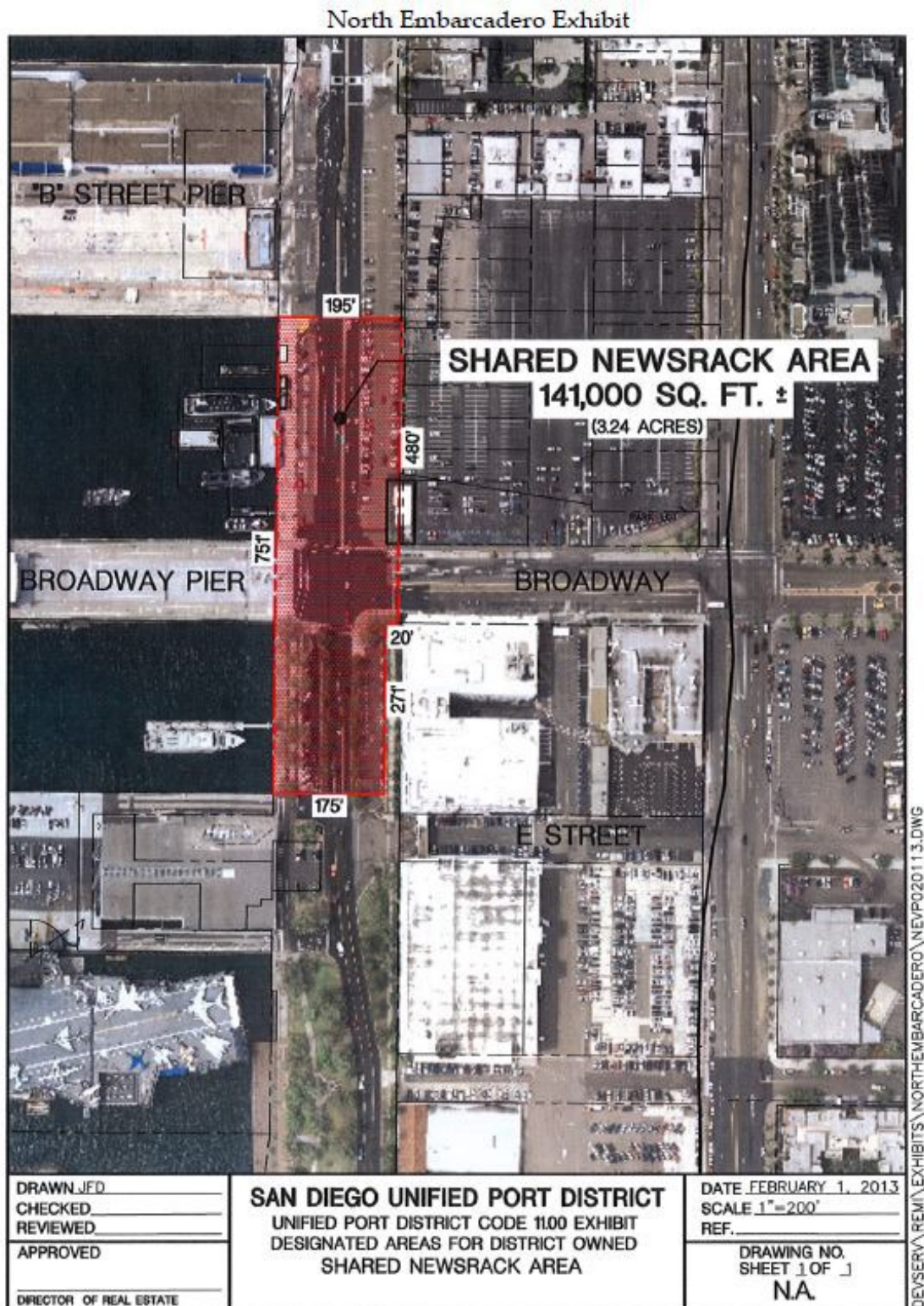
court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, park square, and any other similar public way.

"Roadway" means that part of a public right-of-way improved, designed, or ordinarily used for vehicular travel.

"Sidewalk" means that part of a public right-of-way provided and ordinarily used for the exclusive use of pedestrian travel.

"Street" means that part of a public right-of-way dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and Sidewalks.

(Enacted February 12, 2013 – Ordinance No. 2704)



SECTION NO. 11.03 – GENERAL PROHIBITIONS

The placement, use, or maintenance of any Newsrack in violation of this Article is prohibited, including all Newsracks that endanger the safety of persons or property, or fail to comply with all permit conditions.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.03.5 – PERMIT ISSUANCE, DENIAL, AND APPEAL

- (a) A Person who proposes to place, use, or maintain a Newsrack in the Public Right-of-way shall first obtain a permit for such Newsrack from the Executive Director or his designee. The Executive Director shall charge a Newsrack permit fee as necessary to offset the costs of the District for establishing and administering the provisions of the ordinance. Any permit issued shall be valid for up to one year and shall be renewable. Each Newsrack in one location, or each placement of a Publication in a District Owned Shared Newsrack shall require a separate permit.
- (b) Upon a finding by the Executive Director that an application is complete, accurate, and in compliance with this Article, a permit shall be issued. The Executive Director shall decide to grant or deny a permit application within seven (7) business days of receipt of a complete application as set forth in Section 11.04. The Executive Director shall only grant a permit if he or she finds that the application complies with each provision of this Article.
- (c) A permit may be denied for noncompliance with this Article or for failure to provide accurate and complete information. If a permit is denied, the Executive Director shall give the applicant written notice by U.S. mail of the specific cause for denial.
- (d) Any Person affected by the Executive Director's decision to approve or deny a permit application may appeal that decision to a Hearing Officer,

which shall hear the appeal. The Hearing Officer's review of the Executive Director's decision shall be limited to the record before the Executive Director, and no new evidence may be submitted. The Hearing Officer's decision is final.

- (e) Permits may not be transferred.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.04 – PERMIT APPLICATION

A Person seeking issuance of a permit pursuant to this Article shall file with the Executive Director a written application on a form supplied by the District. The application shall include:

- (a) The name, address, and telephone number of the applicant;
- (b) The name, address, and telephone number of the applicant or other responsible Person whom the District may contact regarding the applicant's Newsrack and to whom notices may be sent;
- (c) The proposed specific location of the Newsrack by provision of a diagram or site map, drawn to scale, showing the proposed location of the Newsrack and the Sidewalk, Streets, and other adjacent improvements within twenty-five (25) feet, including, but not limited to, buildings, building entrances, Driveways, marked and unmarked crosswalks, traffic signals, street light poles, fire hydrants, bus stops and bus benches, utility poles, telephones, and existing Newsracks;
- (d) The name of the Publication, the name of the distributor/publisher, and the proposed frequency of publication;
- (e) A fee as determined by the Executive Director to cover the costs;
- (f) A hold harmless agreement as detailed in Section 11.09; and

- (g) Proof of Insurance as specified in Section 11.10.

The District will develop and set up a searchable, sortable database of information about each Newsrack listed in a permit application. This information is necessary to contact Permittees, conduct hearings, and ensure compliance with the provisions of this Ordinance. Permittees are required to update information supplied on their permit application within thirty (30) calendar days of any changes thereto. The granting of permits shall not be based in any way on the content of constitutionally-protected speech.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.05 – LOCATION RESTRICTIONS ON NEWSRACKS

Any Newsrack that rests or projects in whole or in part, in, on or over any portion of a Public Right-of-way shall be located in accordance with the following provisions:

- (a) No Newsrack shall be placed, used, or maintained such that it rests or projects in whole or in part in, on, or over any portion of any Roadway or Street.
- (b) No Newsrack shall be placed, used, or maintained such that it rests or projects in whole or in part, in, on, or over any portion of a public Sidewalk or Parkway, where such placement, use, or maintenance endangers the safety of persons or property, or when such site or location is used for public utility, public transportation purposes, or other governmental use, or when such Newsrack unreasonably interferes with or impedes the flow of pedestrian, wheelchair, or vehicular traffic, including any legally parked or stopped vehicle, or the use of poles, posts, traffic signs or signals, fire hydrants, mailboxes, or other objects permitted at or near such location, or when such Newsrack interferes with the cleaning of any Sidewalk by the use of mechanical sidewalk cleaning.
- (c) No Newsrack shall be placed, used, or maintained at or within:
 - 1. Five (5) feet of any marked or unmarked crosswalk; the outer edge of any bus bench; fire hydrant, fire sprinklers connection, fire call box, police call box, or other emergency facility; any ramp intended

for use by disabled persons; any curb painted blue pursuant to provisions of California Vehicle Code § 21458; any Sidewalk obstruction, which includes but is not limited to traffic signals, streetlights, trees, sign posts, and telephone or utility poles.

2. One (1) foot of any area improved with lawn, flowers, shrubs, trees, or other landscaping.
3. Five (5) feet ahead of or forty-five (45) feet to the rear of any sign marking a designated bus stop.
4. Ten (10) feet of any Driveway.
5. One hundred (100) feet of any other Newsrack on the same side of the Street containing the same issue or edition of the same Publication.
6. Five (5) feet of the entrance or exit to any building.
7. Five (5) feet of any window that abuts a Sidewalk, or otherwise located so as to interfere or impede the reasonable use of such window for display purposes.
8. One hundred (100) feet of the entrance to any public gathering place where queuing of pedestrian traffic regularly occurs. Such locations shall include but are not limited to ticket booths and theater entrances.

- (d) No Newsrack shall be chained, bolted, or otherwise affixed to any property or permanently fixed object not owned by the owner of the Newsrack without the written permission of the Executive Director.
- (e) All Newsracks should be placed, used, or maintained at the edge of the Sidewalk or pedestrian way farthest from the curb or Roadway (if any).
- (f) No Newsrack shall be located more than twelve (12) inches from the edge of the Sidewalk. Newsracks placed adjacent to the wall of a building shall be placed parallel to such wall and not more than six (6) inches from the wall. For Newsracks that must be placed at the edge of the Sidewalk closest to the road due to an impossibility to comply with (e) above, they shall be placed not less than twelve (12) inches nor more than twenty-four (24) inches from the edge.
- (g) No Newsrack shall be placed or maintained on a Sidewalk or opposite a Newsstand or another Newsrack.
- (h) All Newsracks shall be located and maintained facing inward toward the centerline of the Public Right-of-way.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.06 – NEWSRACK CLUSTERS

- (a) Not more than three (3) Newsracks shall be placed immediately adjacent to each other, so as to constitute a Newsrack Cluster, whether chained, otherwise attached, or freestanding. Any such Newsrack Cluster of up to three (3) Newsracks shall be separated by a space of not less than 36 inches from any other individual Newsrack or Newsrack Cluster.
- (b) Notwithstanding Section 11.06(a), the Executive Director may issue a Newsrack permit allowing the placement of in excess of three (3) immediately adjacent Newsracks following written findings that:
 - 1. The extended Newsrack Cluster will preserve adequate space in the Public Rights-of-way for the safe flow of pedestrian traffic.
 - 2. The extended Newsrack Cluster will otherwise comply with all provisions of this Article.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.07 – STANDARDS FOR MAINTENANCE AND PLACEMENT

Any Newsrack that rests or projects in whole or in part, in, on, or over any portion of a Public Right-of-way shall be located in accordance with the following provisions:

- (a) No Newsrack shall exceed fifty-four (54) inches in height, thirty (30) inches in width, or twenty-four (24) inches in depth overall including any pedestal or base and any coin mechanism.
- (b) No Newsrack or Combination Dispenser shall weigh, in the aggregate, in excess of one hundred twenty-five (125) pounds when empty.
- (c) No exterior or interior component of any Newsrack shall be used for advertising signs or publicity purposes other than that dealing with the display, sale, or purchase of the Publication distributed or sold therein.
- (d) Each coin-operated Newsrack shall be equipped with a coin-return mechanism to permit a Person using the machine to secure an immediate refund in the event the Person is unable to receive the paid for Publication. The coin-return mechanism shall be maintained in good working order.
- (e) Each Newsrack shall have affixed to it in a readily visible place so as to be seen by anyone using the Newsrack, a notice setting forth the name, address, and permit number of the Permittee or responsible Person and the current working telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a

malfunction of the coin-return mechanism, or to give the notices provided for in this Article.

- (f) Each Newsrack shall only contain current editions of the Publication(s) for which the permit was issued.
- (g) Each Newsrack shall have a door, covering, and/or other appropriate device(s) preventing the Publications therein from getting wet and/or falling out due to rain, wind, or similar environmental conditions.
- (h) Each Newsrack shall be placed so as to be stable and maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each Newsrack shall be serviced and maintained so that:
 - 1. It is reasonably free of dirt and grease; chipped, faded, peeling and cracked paint in the visible painted areas thereon; and rust and corrosion in the visible unpainted metal areas thereon.
 - 2. It is reasonably free of graffiti. The Permittee shall be required to remove graffiti on any Newsrack within a reasonable period of time, but not to exceed three (3) business days, of oral or written notification by the District of the existence of the graffiti. If the graffiti is not removed within that time, the distributor is deemed to have given the District authority to remove the graffiti at the Permittee's expense.

3. The clear plastic or glass parts thereof, if any, through which the Publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration.
4. The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading.
5. The structural parts thereof are not broken or unduly misshapen. A maintenance log documenting the Permittee's inspection of each Newsrack shall be maintained by the Permittee and be available for inspection upon request of the District.
 - a) Drop-in type anchor bolts may be used to secure Newsracks to the Public Rights-of-way in exceptional circumstances as an exception to section 11.05(d), at the discretion of the Executive Director.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.07.5 – STANDARDS FOR REMOVAL OF NEWSRACKS

If a Newsrack is found in violation of any provisions of Article 11, notice will be given to the Permittee or responsible Person to correct the violation within ten (10) business days. Failure to conform to the provisions of Article 11 shall be cause for removal of a Newsrack. If the Executive Director or their designee concludes that the Newsrack poses an immediate threat to the safety or welfare of the public, or correction of the violation has not occurred within ten (10) business days of notice, the Newsrack may be immediately removed by the District. Upon removal of any Newsrack, the Permittee or responsible Person shall eliminate any potential hazards to the public, such as bolts, brackets, or holes, and shall restore any disturbed area of the Public Right-of-way to the same or reasonably similar condition as any adjoining Public Right-of-way by removing any protrusions, cleaning the cavity of debris, filling the cavity with high strength epoxy or grout to meet the elevation of the adjoining Public Right-of-way, and avoiding potential depressions by taking into account shrinkage and settlement of the new material. The Public Right-of-way shall be level and free of protrusions or depressions. The Permittee or responsible Person shall match as closely as reasonably possible the color, texture, and material of any adjoining Public Right-of-way surface. Permittee shall also reimburse District for all reasonable costs associated with removal of non-conforming Newsracks.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.08 – ADDITIONAL STANDARDS FOR THE NORTH EMBARCADERO AREA

The following additional standards apply to the North Embarcadero area:

- (a) Only District Owned Shared Newsracks shall be placed in the North Embarcadero. The size, number, composition, and location standards shall be posted on the District's website and available in the District Clerk's Office.
- (b) Space within the Newsracks shall be allocated in accordance with this section as follows:
 - 1. An interested Publication or distributor of multiple Publications can apply for one opening in District Owned Shared Newsrack.
 - 2. Limited space within the District Owned Shared Newsrack shall be allocated by frequency of Publication and each District Owned Shared Newsrack will be partitioned as follows. As determined by the Executive Director, a certain amount of spaces will be allocated to daily Publications, to weekly Publications, and to less frequent Publications. For purposes of this Article, "Daily" means a Publication of approximately five (5) new editions per week; "Weekly" means no fewer than four new editions per month; "Monthly" means no fewer than one new edition per month; "Quarterly" means no fewer than four new editions per year; "Semi-

annual" means no fewer than two new editions per year; and "Annual" means no fewer than one new edition per year. District Owned Shared Newsracks shall be categorized by the lowest frequency of any Publication therein.

3. If the number of applications for a particular frequency is less than the spaces available, the Executive Director will allow the next highest frequency to apply for that space. If space still remains, an interested party may apply for more than one space within a specified District Owned Shared Newsrack.
4. If the number of applications exceeds the number of spaces available, then Executive Director will hold a lottery to allocate the available spaces within each frequency of Publication category.
5. The District will adopt this lottery policy as deemed necessary by the Executive Director. The policy will be based on a lottery consisting of a random drawing or drawings awarding spaces to interested applicants within a Daily, Weekly, Monthly, Quarterly, Semi-annual, or Annual frequency of Publication category as defined above.
6. If a Person or Permittee believes the result of a lottery or the Executive Director's decision on a matter is contrary to the

provisions of this Ordinance, they may request a hearing pursuant to Section 11.13.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.08.5 – LOCATION OF NEWSRACKS IN CLASS AREAS I-IV

The Port Master Plan provides Class Areas I through IV designation for all land within its jurisdiction and in addition to the location and placement standards discussed in this Article the following requirements by Class area shall apply:

- (a) Newsracks may be located in Class I, III and IV areas so long as the location and placement of the Newsracks comply with all other provisions of this Article.
- (b) No Newsracks shall be located in areas designated as a Class II area. Newsracks in these areas would introduce foreign objects into undeveloped open space as well as encourage people to enter protected areas that may carry restricted access.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.09 – INDEMNIFICATION REQUIREMENT

An application for a permit shall include a hold harmless agreement in substantial compliance with this Section which must be executed by the Permittee prior to the issuance of any permit under this Article. The Permittee shall, in a written statement in a form approved by the Port Attorney, agree to the fullest extent provided by law to defend, indemnify, and hold harmless the District, its officers, employees, agents, and representatives, for any and all loss, claim, demand, liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any Person as a result of the placement, use and/or maintenance of a Newsrack within the District, except for acts by third parties out of the control of Permittee or for claims or litigation arising through the sole negligence or willful misconduct of the District. This indemnity obligation shall apply for the entire time that any third party can make a claim against or sue the District for liabilities arising out of Permittee's placement, use, and maintenance of Newsracks pursuant to this Article.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.10 – INSURANCE REQUIREMENTS

- (a) As a condition of any permit under this Article, the Permittee shall within ten (10) business days of the approval of the permit, but prior to the placement, use, or maintenance of any Newsrack, obtain and maintain at all times during the term of any permit approved under this Article, and at all times Permittee's Newsrack remains on any portion of the Rights-of-way, the following: Commercial Liability Insurance subject to the reasonable requirements of the District's Risk Management Department and approval by the Port Attorney and in substantial conformance with this section, covering any liability arising from or connected with, or caused or claimed to be caused by, any Newsrack for which the Permittee is responsible and any Newsrack owned by or attributable to Permittee, in a reasonable and sufficient amount, as determined by the District's Risk Management Department, to cover the risks associated with the Newsrack(s). No Newsrack may be placed, used, or maintained until Permittee provides the Executive Director with proof of the requisite insurance, including any endorsements. The policies required by Section 11.10(a) shall be endorsed to include the District as an additional insured.
- (b) If any of the insurance policies required by this Section are written on a "claims made" basis, then at the termination, Permittee shall at its own

expense, obtain "tail" or continuing coverage as to such policies for a period of not less than four (4) years.

- (c) The insurance policies required by this Section and filed with the District shall include a statement by the insurance carrier(s) that such carrier(s) will give the District thirty (30) calendar days' notice before canceling any insurance policy.
- (d) All coverages under this Section shall be effective as of the effective date of placement.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.11 – DAMAGE TO DISTRICT PROPERTY

Damage to public property resulting from the placement, use, or maintenance of a Newsrack shall be repaired immediately by and at the expense of the Persons directing, managing, or accomplishing the placement, use, or maintenance. Failure of the Permittee or responsible Person to make the required repairs shall result in the District's forced undertaking to make such repairs. The cost of forced repairs undertaken by the District shall be chargeable as a civil debt to the Permittee or responsible Person, and may be collected by the District in the same manner as it collects any other civil debt or obligation.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.12 – NONCONFORMING NEWSRACKS

Commencing one hundred twenty (120) calendar days after Article 11 regulating Newsracks on District Tidelands becomes effective, any Newsrack in violation of any provision of this Article will be deemed a nonconforming Newsrack and subject to the enforcement procedures set forth in these regulations, including seizure and removal.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.13 – ENFORCEMENT; VIOLATIONS; HEARINGS

- (a) The District will implement a systematic field enforcement program to ensure compliance with the provisions of the Ordinance.
- (b) Any Newsrack in violation of this Article may be seized and removed pursuant to Section 11.13(b). Before any Newsrack is seized (except under the circumstances set forth in Section 11.3(d) below, the Permittee and/or Person responsible for its placement and maintenance shall be given a notice of violation which provides ten (10) business days in which to remedy the violation or to request a hearing to contest the seizure and removal. Notice to the party responsible for the Newsrack shall be given by written notice sent to the address provided in the permit application, and an additional notice tag shall be affixed to the Newsrack on the date of notice. The latter notice shall be sufficient if no identification is shown on the Newsrack and no permit application has been filed. Both the notice sent to the address stated on the permit application and the additional notice tag affixed to the Newsrack shall state the place to request a hearing to contest the seizure removal pursuant to this Section.
- (c) Any Permittee or responsible Person notified under Section 11.13(a) above may request a hearing. The hearing shall take place within thirty (30) calendar days of the request and shall be conducted by a Hearing Officer. The hearing shall be informal, but oral and written evidence may

be given by both sides. Any action by the District with respect to the alleged violation shall be stayed pending the Hearing Officer's decision following the hearing, which decision shall be rendered no later than ten (10) business days after the hearing. The Hearing Officer may give oral notice of the decision at the close of the hearing but shall give written notice of all decisions as well. Failure to render the decision within ten (10) business days shall not affect the validity of such decision. If the notice of violation is not vacated, the Permittee or Person or entity responsible for the Newsrack shall comply with the notice within ten (10) business days of issuance of the written decision. Failure to comply shall result in seizure and removal of the Newsrack.

- (d) The District may seize and remove a Newsrack if the Permittee or Person responsible for such Newsrack has: (i) neither requested a hearing before the Hearing Officer, nor remedied the violation within ten (10) business days following the date of notice; or (ii) following a hearing conducted pursuant to Sections 11.13(b) & (c), has failed to remedy the violation within ten (10) business days after receiving a copy of the written decision that the Newsrack is in violation of this Article. Such Permittee or responsible Person shall be notified of the seizure. Seized Newsracks shall be retained by the District and may be recovered by the responsible party for a period of at least ten (10) business days following the seizure.

- (e) Notwithstanding the provisions of Section 11.13(a)-(c), if a Newsrack is located, placed or maintained in such a place or manner as to pose an immediate and serious threat to the health safety or welfare of the public, the District may seize and remove such Newsracks without prior notice to the party responsible for such Newsrack. Notice shall be given to the responsible party within ten (10) business days of seizing the Newsrack. Such notice shall state the reasons for removal, the location and procedure for claiming the Newsrack, and the procedure for obtaining a post-removal hearing. If the party responsible for the Newsrack chooses to forego a post-removal hearing, he or she may take possession of the seized Newsrack upon payment of all costs incurred by the District for removal and storage of the Newsrack, and a civil penalty in the amount necessary to cover administrative costs involved in the removal and storage of the Newsrack. If the Permittee or responsible Person fails to pay such penalty, the Newsrack in question shall be deemed to be unclaimed property and may be disposed of accordingly. If the responsible party for the Newsrack requests a post-removal hearing, it shall be conducted pursuant to the procedures set forth in Section 11.13(b). If the decision upholds the seizure, the Permittee or responsible Person may take possession of the seized Newsrack upon payment of all costs incurred by the District for removal and storage of the Newsrack and

a civil penalty in the amount necessary to cover all administrative costs involved in the removal and storage of the Newsrack and the hearing process. If a Permittee or responsible Person fails to pay such penalty, the Newsrack in question shall be deemed to be unclaimed property and may be disposed of accordingly. If the decision determines that the seizure was not in accordance with the provisions of this Section, the Executive Director shall provide for the return of the Newsrack to the location from which it was seized.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.14 – ABANDONMENT

In the event that a Newsrack is unused for a period of sixty (60) continuous calendar days, notice shall be given to the Permittee or responsible Person. The Permittee shall inform the District in writing within ten (10) business days of receiving notice that they intend to continue use of the Newsrack, and the Newsrack will not be considered abandoned. If the Permittee or responsible Person no longer wishes to use the Newsrack, it shall be considered abandoned, and the District may thereupon give notice to the Permittee or responsible Person to remove the Newsrack. Such notice shall inform the Permittee or responsible Person for the Newsrack that if the Newsrack is not removed or again placed in use as a Newsrack within ten (10) business days of the notice, the District may remove and impound the Newsrack. The Permittee or responsible Person may take possession of an impounded Newsrack upon payment of all costs incurred by the District, and a civil penalty in the amount necessary to cover all administrative costs incurred in the removal and storage of the Newsrack within ten (10) business days of impoundment by the District. If the Permittee or responsible Person for the Newsrack fails to make such payment within ten (10) business days, the Newsrack in question shall be deemed to be unclaimed property and may be disposed of accordingly.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.15 – PERMIT FEES

All Newsracks require the timely payment of an annual permit fee as set forth by the District Executive Director.

- (a) The permit fee shall be sufficient to recover the costs of processing the permit application and enforcing permit requirements.
- (b) A separate permit fee applies to Newsracks located in the North Embarcadero area. This fee shall be sufficient to recover costs associated with processing the permit application, enforcing permit requirements, and administering the lottery.
- (c) Permit fees shall not exceed the amount needed to cover administrative costs.

(Enacted February 12, 2013 – Ordinance No. 2704)

SECTION NO. 11.17 – SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The District hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

(Enacted February 12, 2013 – Ordinance No. 2704)

ARTICLE 12REQUIRED REPORTING OF UTILITY USE ON TIDELANDS**SECTION NO. 12.01 – TITLE PURPOSE AND INTENT**

This Chapter may be referred to as the Required Reporting of Utility Use on Tidelands Ordinance.

To encourage efficient use of Utilities and allow the District to track progress towards its CAP goals, this Section requires Utility Account Holders within the District to report Utility Usage data using the Data Collection System from which the District shall receive only aggregated data and not individual Utility Account Holder data.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.02 - DEFINITIONS

For purposes of this Section, the following terms shall have the following meanings:

1. “Aggregated Data” means any data which combines reported Utility Use data from at least three Utility Accounts and from which individual Utility Account usage data cannot be discovered.
2. “Compliance Data” means data sufficient to determine a Utility Account Holder’s compliance with this Section (e.g., whether a Utility Account Holder reported required data fields and Utility usage data, but not the amount of Utility usage reported).
3. “Data Aggregator” means a person or entity, separate from the District and not an employee of the District, which is retained to receive Utility Account Holder data and other data fields from the Data Collection System and provide the District with Aggregated Data and Compliance Data, and provide data to an Independent Auditor in accordance with Section 12.04.

The Data Aggregator shall be retained as follows:

- a) by the San Diego Port Tenants Association in accordance with a Memorandum of Understanding with the District, or
- b) directly by the District, but only if no retention under subsection (1) is made by March 1, 2016 or if a retention under subsection (1) is

subsequently terminated, and then only until such time as a retention under subsection (1) is made.

4. “Data Collection System” means Environmental Protection Agency ENERGY STAR® Portfolio Manager® or a comparable online tool used for managing facility data that is selected by the District.
5. “Executive Director” means the Executive Director of the District or his or her designee.
6. “Independent Auditor” means a person or entity, separate from the District and not an employee of the District, selected by District to conduct an independent audit in accordance with Section 12.04.
7. “Utilities” or “Utility” means electricity, natural gas, steam, heating oil, water, other product, or renewable on-site electricity generation used for the purposes of providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in a building, property or facility.
8. “Utility Account Holder” means an entity or person, as defined by California Public Resources Code Section 25116 or any successor legislation, who has an account with any provider of Utilities that is separately metered.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.03 – REQUIRED REPORTING OF UTILITY USAGE DATA

- (a) Beginning on March 1 each year (August 1, 2016 for the first year), all Utility Account Holders within the District shall utilize the Data Collection System to: (1) complete a profile and input all data fields required by the District as determined by the Executive Director, to include, but is not limited to, property information and property use details; and, for those Utility Account Holders that are Direct Access customers, documentation of emissions factors for energy procured outside of SDG&E; and (2) report all monthly Utility usage for all meters for the preceding calendar year by granting permission to all of its Utility providers to report Utility usage data directly to the Data Collection System where such process is available, and, for any Utility provider for which direct reporting is not available, Utility Account Holder shall enter such Utility usage directly into the Data Collection System.
- (b) On or before April 1 of each year (September 1, 2016, for the first year), all Utility Account Holders within the District shall respond to external data requests through the Data Collection System to the Data Aggregator allowing the Data Aggregator to receive all requested data from the Data Collection System.
- (c) Data Aggregator shall report any Aggregated Data to the District as requested by the District but shall not, in any event, disclose individual

Utility Account Holder data to the District. The District shall make such Aggregated Data publicly available within sixty (60) days.

- (d) Data Aggregator shall report any Compliance Data to the District as requested by the District.
- (e) Data Aggregator shall not disclose any individual Utility Account Holder data to anyone except, pursuant to an independent audit in accordance with Section 12.04, Data Aggregator shall disclose all data for the Utility Account Holder being audited to the Independent Auditor for the time period of the independent audit.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.04 – INDEPENDENT THIRD PARTY AUDITS

- (a) To confirm the accuracy of Utility Usage data reporting and to verify compliance with this Section, the Port Auditor shall have the authority to have an independent audit conducted of any Utility Account Holder's compliance with this Section.
- (b) If the Port Auditor chooses to have an independent audit conducted, the Port Auditor shall notify the Utility Account Holder of the audit and the time period covered by the audit and shall identify the Independent Auditor.
- (c) Within 30 days of request, Utility Account Holder shall provide all documents requested by Independent Auditor to verify all reported Utility Usage data for the time period covered by the audit. Such documents shall not be disclosed by the Independent Auditor to the District.
- (d) Independent Auditor shall report to the District whether Utility Account Holder has accurately reported data. Independent Auditor shall provide audit findings to the District as requested. However, the audit findings shall not disclose individual Utility Account Holder data to the District. For example, only, an audit finding may be that water usage was underreported by 1000 gallons, but shall not disclose that reported usage was 15,000 gallons when actual usage was 16,000 gallons.
- (e) If Independent Auditor determines that Utility Account Holder failed to accurately report any Utility Usage data with a discrepancy amount that is 5 percent of the accurate usage or greater, Utility Account Holder shall pay

the District for the full cost of the third party audit within 30 days of the Utility Account Holder receiving invoice from the District. However, a Utility Account Holder shall not be responsible for audit costs to the extent that the inaccurate reporting was made by a Utility provider directly to the Data Collection System through no fault of Utility Account Holder.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.05 – IMPLEMENTATION

- (a) The Executive Director may adopt rules and procedures for the implementation of this Section.
- (b) The Executive Director may modify or suspend the requirements of this Section if:
 - 1. The State of California or Federal government adopts a similar or more comprehensive Utility performance rating or reporting program, and such program requires comprehensive rating and/or reporting; or,
 - 2. The Executive Director makes the finding that a technological deficiency related to the Data Collection System or Data Aggregator precludes compliance with this Section. Such modification or suspension may be lifted in full or part upon the finding that any such deficiency has been corrected.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.06 – NOTICE AND CURE PERIOD AND ADMINISTRATIVE PENALTIES

If the District determines that a Utility Account Holder has failed to comply with this Section, it shall provide written notice to the Utility Account Holder identifying the compliance issues. Utility Account Holder shall have 30 days from the date of the notice to cure all compliance issues and respond to any required additional external data requests through the Data Collection System to the Data Aggregator allowing the Data Aggregator to receive all requested data from the Data Collection System. In the event that Utility Account Holder fails to cure within the time period allowed, in addition to, and without limiting any other remedies available to the District, Administrative Penalties may be imposed pursuant to District Code Section 0.11(i). Any later-enacted administrative penalty provision in the District Code shall also be applicable to this Article, unless otherwise provided therein. In no event shall failure to comply with this Article constitute a default under an existing District tenant's lease unless the District tenant's lease expressly provides otherwise.

(Enacted December 8, 2015 – Ordinance No. 2844)

SECTION NO. 12.07 – MISCELLANEOUS

Nothing in this Section shall limit or waive any rights of the District under any lease, permit or other agreement with a Utility Account Holder or anyone.

(Enacted December 8, 2015 – Ordinance No. 2844)

ARTICLE 14

FIREWORKS DISPLAY

SECTION NO. 14.01 – TITLE

The title of this article shall be known as the “San Diego Unified Port District Fireworks Display Event Ordinance.”

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.02 – PURPOSE

The purpose of this article is to establish a defined set of requirements and procedures by which the District and users of the District tidelands may continue to enjoy fireworks displays in and around San Diego Bay and the Pacific Ocean near Imperial Beach. Further, it is the intent of this article to protect the health, safety and welfare of persons, property and the environment within the District's jurisdiction and to comply with federal, state and local laws and regulations governing the handling, possession, storage, loading, staging, launching and detonating of fireworks.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.03 – DEFINITIONS

For purposes of this article, certain words and phrases not otherwise defined in District Code section 0.03 shall be defined as follows, unless the context requires a different meaning:

1. “Alternative fireworks” means fireworks produced with new pyrotechnic formulas that replace perchlorate with other oxidizers and propellants that burn cleaner, produce less smoke, and reduce pollutant waste loading to surface waters.
2. “Applicant” means a person who submits an application to the District for a permit pursuant to this article.
3. “Application” means the District’s written form to be submitted by a person requesting a permit pursuant to this article.
4. “Barge” means a water vessel from which fireworks are launched or detonated.
5. “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, pollution prevention and educational practices, maintenance procedures, tools and other management practices used to prevent or reduce the discharge of pollutants directly to receiving waters to the maximum extent practicable. BMPs may include any type of pollution prevention and pollution control measure that can help to achieve compliance with this article.

6. “District” means the San Diego Unified Port District.
7. “District General Counsel” means the General Counsel of the District or her/his designee.
8. “Executive Director” means the Executive Director (President/CEO) of the District or her/his designee.
9. “Fireworks” means any device containing chemical elements and chemical compounds capable of burning independently of the oxygen of the atmosphere and producing audible, visual, mechanical, or thermal effects which are useful as pyrotechnic devices or for entertainment, including aerial shells, low-level comet or multi-shot devices or ground-level displays. The term “fireworks” includes, but is not limited to, devices designated by the manufacturer as fireworks, torpedoes, skyrockets, roman candles, rockets, sparklers, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs, and fireworks kits.
10. “Fireworks Display Event” means the handling, possession, storage, loading, staging, launching or detonating of fireworks on the land or waters within the District’s jurisdiction for viewing by the public or any group of persons exceeding twenty-five (25) in number.
11. “Fireworks Operator” means a pyrotechnic operator licensed by the State of California, who by examination, experience and training has

demonstrated the required skill and ability in the use and discharge of fireworks as authorized by the license granted, and who is responsible for supplying, staging, launching or detonating the fireworks used in a fireworks display event.

12. “Fireworks Organizer” means a person who proposes to conduct a fireworks display event and who is responsible for obtaining the funding and approvals for a fireworks display event and for contracting with a fireworks operator to produce a fireworks display event.
13. “Fourth of July Fireworks Display Event” means a fireworks display event that occurs annually on the Fourth of July to express patriotism and civic pride and to celebrate the signing of the Declaration of Independence of the United States of America.
14. “Non-Fourth of July Fireworks Display Event” means a fireworks display event that occurs on a date other than the Fourth of July.
15. “Operation Clean Sweep” means the annual cleanup event sponsored by the San Diego Port Tenants Association and District, among others, where volunteers remove trash and debris from San Diego Bay.
16. “Permit” means the District-issued authorization for an applicant to conduct a fireworks display event pursuant to this article.

17. “Person” means an individual, association, partnership, nonprofit organization, corporation, limited liability company, trustee, municipality, public agency or other legal entity, or the agent or employee thereof.
18. “Pounds” means the net explosive weight of fireworks.
19. “Salute” means an aerial shell as well as other pyrotechnic items whose primary effects are loud noise generated by detonation and flash of light.
20. “San Diego Bay Fourth of July Fireworks Display Event” means the annual fireworks display event which occurs on the Fourth of July at up to four (4) locations in northern San Diego Bay and is currently known as the “Big Bay Boom.” The San Diego Bay Fourth of July Fireworks Display Event will be referred to in this article as the Big Bay Boom.
21. "San Diego Water Board" means the California Regional Water Quality Control Board for the San Diego Region.
22. "San Diego Water Board General Permit" means California Regional Water Quality Control Board for the San Diego Region Order No. R9-2011-0022/NPDES No. CAG999002, General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States, including any updates and amendments thereto.

23. “Sponsor” means a person who contributes funds, services, or other forms of assistance to a fireworks organizer in support of a fireworks display event.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.04 – PROHIBITIONS

- (a) It shall be unlawful for any Person to handle, possess, store, load, stage, launch or detonate Fireworks on land or water within District jurisdiction without first having obtained a Permit from the Executive Director as provided in this section. By signing said Permit, each Permit recipient acknowledges and agrees to comply with all of the applicable terms and conditions that may be specified in such Permit and this article.
- (b) Any Person who receives a discretionary lease, permit, license or other entitlement for use or a contract, grant, subsidy, loan or other form of financial assistance from the District in connection with a Fireworks Display Event shall also obtain a Permit from the Executive Director as provided in this article. By signing said Permit, each Permit recipient acknowledges and agrees to comply with all of the applicable terms and conditions that may be specified in such Permit and this article.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.05 – PERMITS – APPLICATION

Whenever the privilege of doing any of the acts hereinbefore enumerated in this article requires obtaining a Permit from the Executive Director, the following procedure shall be followed:

- (a) An application for a Permit shall be filed with the District not less than sixty (60) days before the date on which the Fireworks Display Event is proposed to occur.
- (b) The application shall be in writing, in a form approved by the District, and shall include, at minimum, the following information: the Person who proposes to handle, possess, store, load, stage, launch or detonate Fireworks, including if applicable the Fireworks Organizer, Fireworks Operator and Sponsor of the Fireworks Display Event; the date, time and duration of the proposed Fireworks Display Event; the location(s) of the proposed Fireworks Display Event, including the loading, staging and launching sites; the total number of pounds, shell sizes and types of Fireworks to be used; and the proposed event transportation and parking management plan for the Fireworks Display Event.
- (c) The application shall include copies of the Applicant's Notice of Intent for coverage under the San Diego Water Board General Permit, the San Diego Water Board's Notice of Enrollment of the proposed Fireworks

Display Event under said General Permit, and the Best Management Practices Plan approved by the San Diego Water Board for the proposed Fireworks Display Event.

- (d) When the application is deemed complete, the Executive Director shall review the application and determine whether the proposed Fireworks Display Event complies with all of the requirements of section 14.07 (Permit – Conditions of Approval) of this article. If the proposed Fireworks Display Event complies with all of the requirements of section 14.07 (Permit – Conditions of Approval) of this article, the Executive Director shall issue a Permit.
- (e) Each Permit issued shall state the date, time and location of the Fireworks Display Event for which it is issued, the name of the Person to whom it is issued and all mandatory conditions upon which the Permit is given.
- (f) An application for a permit for a Fireworks Display Event at a location not identified in Section 14.07(a) of this article may be granted by the Executive Director provided that (i) environmental review for the proposed Fireworks Display Event has been completed and approved or certified by the District as required by the California Environmental Quality Act, Public Resources Code § 21000, et seq. prior to issuance of a permit and (ii) the applicant has obtained all other permits and approvals as required by

SECTION NO. 14.06 – PERMITS – PUBLIC NOTICE

- (a) Within five (5) business days after the issuance of a Permit pursuant to this article, the Executive Director shall give public notice of the issuance of such Permit by posting a copy of the Permit on the District's website.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.07 – PERMITS – CONDITIONS OF APPROVAL

All permits issued by the Executive Director shall be subject to the following terms and conditions:

(a) Location of Fireworks Display Events.

1. Fourth of July Fireworks Display Events shall occur only at the following locations.
 - a) Big Bay Boom, at up to four (4) locations in northern San Diego Bay;
 - b) Fourth of July Imperial Beach Fireworks, at one (1) location along the Imperial Beach Pier;
 - c) Fireworks Over Glorietta Bay, at one (1) location in Glorietta Bay;
 - d) Chula Vista Fourth of July, at one (1) location adjacent to the Chula Vista Bayfront; and
 - e) National City Fourth of July, at one (1) location adjacent to the National City Bayfront.
2. Non-Fourth of July Fireworks Display Events shall occur only at the following locations.
 - a) National Steel and Shipbuilding Company (NASSCO) shipyard, not to exceed two (2) displays per year along NASSCO Pier 12;

- b) U.S.S. Midway Museum, not to exceed twenty-three (23) displays per year on or adjacent to the U.S.S. Midway Museum;
 - c) San Diego Symphony Summer Pops Concerts, not to exceed twenty (20) displays per year adjacent to Embarcadero Marina Park South;
 - d) Our Lady of Rosary Church Annual procession, not to exceed one (1) display per year along Harbor Drive and at end of Grape Street Pier; and
 - e) Chula Vista Bayfront, not to exceed two (2) displays per year adjacent to the Chula Vista Bayfront
- (b) Duration of Fireworks Display Events.
- 1. Fourth of July Fireworks Display Events shall not exceed twenty (20) minutes in duration.
 - 2. Non-Fourth of July Fireworks Display Events shall not exceed ten (10) minutes in duration.
- (c) Size of Fireworks Display Events.
- 1. Fourth of July Fireworks Display Events.
 - a) Big Bay Boom, not to exceed a cumulative 5,342 pounds of fireworks with shell sizes not to exceed 10 inches;

- b) Fourth of July Imperial Beach Fireworks, not to exceed 456 pounds of fireworks with shell sizes not to exceed 10 inches;
- c) Fireworks Over Glorietta Bay, not to exceed 397 pounds of fireworks with shell sizes not to exceed 10 inches;
- d) National City Fourth of July, not to exceed 400 pounds of fireworks with shell sizes not to exceed 8 inches; and
- e) Chula Vista Fourth of July, not to exceed 400 pounds of fireworks with shell sizes not to exceed 8 inches.

2. Non-Fourth of July Fireworks Display Events.

- a) NASSCO shipyard, not to exceed 281 pounds of fireworks per display with shell sizes not to exceed 6 inches, or a cumulative total of 439 pounds of fireworks per year;
- b) U.S.S. Midway Museum, not to exceed 235 pounds of fireworks per display with shell sizes not to exceed 6 inches, or a cumulative total of 1,759 pounds of fireworks per year;
- c) San Diego Symphony Summer Pops Concerts, not to exceed 95 pounds of fireworks per display with shell sizes not to exceed 6 inches, or a cumulative total of 1,498 pounds of fireworks per year;

- d) Our Lady of Rosary Church Annual procession, not to exceed 18 pounds of fireworks with shell sizes not to exceed 6 inches; and
 - e) Chula Vista Bayfront, not to exceed 114 pounds of fireworks per display with shell sizes not to exceed 8 inches, or a cumulative total of 228 pounds of fireworks per year.
- (d) Fireworks Chemical Composition and Packaging.
 - 1. Chemical Composition.
 - a) The Big Bay Boom Fourth of July Fireworks Display Event shall use Fireworks which contain no more than 0.32% copper (Cu) per pound of explosive firework material, unless the Applicant establishes in writing and to the satisfaction of the Executive Director that the total copper emissions from the proposed Big Bay Boom Fireworks Display Event will not exceed seventeen (17) pounds. Fireworks which do not conform to the foregoing requirement but were lawfully purchased prior to the effective date of this article, may be used for a period of six months after the effective date of this article.

- b) All Fireworks Display Events shall use Alternative Fireworks produced with pyrotechnic formulas which replace perchlorate with other oxidizers and propellants that burn cleaner, produce less smoke, and reduce pollutant waste loading to surface waters, unless the Applicant establishes in writing and to the satisfaction of the Executive Director that such Alternative Fireworks are not commercially available.
- 2. Packaging.
 - a) Prior to commencement of a Fireworks Display Event, the Fireworks Operator shall remove and properly dispose of all packaging, wrapping and labels (excluding labels mandated by State or Federal laws) from all Fireworks to be used in the event.
 - b) Fireworks that include a plastic outer casing or non-biodegradable inner components that make up more than five (5) percent of the mass of the shell or device are prohibited.
- (e) Protection of Sensitive Species and Habitat. The following conditions shall apply to Fireworks Display Events that occur between February 15

and September 15 (i.e., avian breeding season) and are located less than one (1) mile from any federally or state-listed avian species nesting colonies.

1. Location. Fireworks Display Events shall be located not less than one (1) mile from any federally or state-listed avian species nesting colony unless the maximum size of shells used in the event is limited to eight (8) inches.
2. Salutes. Fireworks Display Events shall not use concussion type, non-color shells such as “salutes” or “reports” during the initial twenty-five percent (25%) of the duration of any display (e.g., within the first 5 minutes of a 20-minute display).
3. Security. For Fireworks Display Events with public viewing areas (i.e., parks, promenades, publicly accessible piers, and other similar facilities) that occur within one-half mile of unprotected (i.e., unfenced) federally or state-listed nesting colonies or habitat areas, the Fireworks Organizer shall provide a minimum of two professional security guards to direct persons away from and to discourage trespass into sensitive nesting areas or habitat during such displays. In addition, the fireworks organizer shall provide

security patrols of the water area to enforce the existing restrictions on access to unauthorized areas during such fireworks display events in the South Bay.

4. Signage. For Fireworks Display Events with public viewing areas (i.e., parks, promenades, publicly accessible piers, and other similar facilities) that occur within one half-mile of nesting colonies or habitat areas for federally or state-listed species, the Fireworks Organizer, in cooperation with the District, shall post temporary signage along primary access points to sensitive nesting colonies and habitat areas to identify safe viewing locations, to educate visitors on locations of sensitive wildlife habitats, to prevent viewers from trespassing into sensitive areas and to encourage appropriate viewing behavior.
5. Education. Beginning not less than seven (7) days before Fireworks Display Events with public viewing areas (i.e., parks, promenades, publicly accessible piers, and other similar facilities) located within one-half mile of federally or state-listed nesting colonies or habitat areas, the Fireworks Organizer shall implement a public education program using daily announcements on social media, press releases, and information posted at parks, boat launch facilities, marinas, yacht clubs and other viewing locations,

to educate potential viewers regarding appropriate viewing and boat docking areas, to discourage trespass into sensitive wildlife habitat, and to reminds viewers of appropriate viewing behavior in and near sensitive nesting colonies and habitat areas (e.g., appropriate disposal of trash, prevention of illegal fireworks, and safe boating procedures).

- (f) Best Management Practices. Fireworks Display Events shall implement the following BMPs for Fireworks Display Event preparation, discharge and clean-up.
 - 1. Fireworks Display Events on barges shall be set up at a loading facility in accordance with the requirements and under the supervision of the municipal fire department with jurisdiction over the event. Barges shall be inspected for leaks and other potential safety issues. Idling time for delivery trucks and loading equipment shall not exceed three (3) minutes and all such trucks and equipment shall be shut down when not in use.
 - 2. Fireworks shall be brought to the barge and loaded in their U.S. Department of Transportation (DOT)-approved shipping cartons. Fireworks shall be encased in paper to prevent spillage of loose compounds. All packaging material and debris, including fuses,

wires, shipping cartons and other wrapping, shall be properly disposed of in trash receptacles as the Fireworks Display Event is set up. Unless prohibited by the municipal fire marshal with jurisdiction over the Fireworks Display Event, barges shall be equipped with a fire-retardant debris barrier that extends six feet (6') in height, with openings no larger than ¼ inch, around the perimeter of the Fireworks launch area to contain debris.

3. Wires from the electric match placed in the Fireworks fuse shall be secured to avoid strain (such as wrapped around nails that are on the racks, tied to the racks, or tied to the mortar) to prevent wires from being pulled out and falling into the water. Wire cables connected to computer firing equipment modules shall also be properly secured to ensure they remain on the barge during the Fireworks Display Event.
4. Once the Fireworks are prepared for launch, all trash and debris shall be removed from the barge while it is at the loading facility and prior to the barge being moved into position. No loose material shall be allowed on the barges during the Fireworks Display Event.
5. Following the Fireworks Display Event and upon expiration of any safety period required by the municipal fire marshal with jurisdiction over the Fireworks Display Event, the Fireworks Operator shall pick

up all loose material on the barge, including all trash and debris resulting from the discharge of the Fireworks, to prevent it from being discharged into the water while the barge is underway.

6. Upon return to the loading facility, the Fireworks Operator shall clean the barge of all Fireworks related material and shall photograph and properly dispose of all Fireworks trash and debris. Unexploded Fireworks and related components shall be collected and disposed of by the Fireworks Operator in accordance with all applicable regulations. Fireworks Operators shall photograph the barge prior to and after cleaning.
7. Following the Fireworks Display Event and upon expiration of any safety period required by the municipal fire marshal with jurisdiction over the event, the Fireworks Organizer shall provide cleanup crews and boats to conduct sweeps of the fireworks detonation zone to gather any floating debris from spent Fireworks using hand held fishnets, pool skimmers, or other similar equipment.
8. The morning after the Fireworks Display Event, the Fireworks Organizer shall conduct another sweep of the fireworks detonation zone and quays, piers and docks adjacent to the fireworks detonation zone to remove Fireworks trash and debris. The

Fireworks Organizer shall collect, bag, weigh and photograph all trash and debris collected prior to its disposal.

9. The morning after the Fireworks Display Event, the Fireworks Organizer shall perform a cleanup of the shoreline using crews of not fewer than five persons per barge on the shoreline adjacent to each barge location. Each crew member shall be equipped with trash bags and a trash grabber. The Fireworks Organizer shall collect, bag, weigh, and photograph all trash and debris collected prior to its disposal.
10. Within ten (10) business days after a Fireworks Display Event, the Fireworks Organizer shall provide the Executive Director with the photographs and written evidence of the weight of the Fireworks trash and debris collected pursuant to subdivisions (5) through (9) above. If the dry weight of the Fireworks trash and debris collected is less than fifty percent (50%) of the net weight of fireworks launched during the Fireworks Display Event, the Fireworks Organizer shall offset the remaining amount by providing a crew of not fewer than two (2) persons for each barge or other launch site used in the Fireworks Display Event to participate in the next scheduled “Operation Clean Sweep” or other District-sponsored clean-up event prior to the end of the calendar year to recover trash

and debris from San Diego Bay and/or the Imperial Beach Oceanfront.

11. For all Fourth of July Fireworks Display Events and for Non-Fourth of July Fireworks Display Events which are advertised to the public, the Fireworks Organizer shall double the number of trash receptacles at major viewing areas prior to each fireworks display event; trashcans shall be emptied and parks and viewing areas shall be cleaned following the event.

(g) Eelgrass Avoidance and Mitigation. For Fireworks Display Events with launching sites located in shallow water with the potential for eelgrass to occur, fireworks barges shall be held in place by tugboats and shall not require temporary moorings. To the extent practicable, barges shall be located in unvegetated deep water channels outside of eelgrass beds. Pre-event and post-event eelgrass surveys shall be completed to identify the distribution of eelgrass to assist tug operators and to assess any impacts to eelgrass that may occur. Through a pre-event training, tug operators shall be made aware of shallow eelgrass and instructed not to use high thrust in the vicinity of eelgrass beds. If an unanticipated impact to eelgrass occurs, this impact shall be mitigated by replacing the eelgrass at a ratio determined by the California Eelgrass Mitigation Policy.

- (h) Event Transportation and Parking Management Plans. For all Fourth of July Fireworks Display Events and for Non-Fourth of July Fireworks Display Events which are advertised to the public, the Fireworks Organizer shall prepare and submit an event transportation and parking management plan (ETPMP) to the Executive Director for approval as part of the Application, which shall be designed to ensure safe and convenient access to public viewing areas while limiting conflicts between transportation modes and reducing impacts on surrounding transportation facilities to the maximum extent feasible. The ETPMP shall take into account anticipated attendance, existing transportation and parking facilities, and other concurrent public events in the surrounding areas, and shall include but is not limited to the following.
1. Transportation management strategies, including but not limited to, a public awareness program, traffic management and enforcement, incident management, and public transit and alternative modes of transportation management, which shall be implemented for the Fireworks Display Event; and
 2. Parking management strategies, including but not limited to a public awareness program, coordination with parking vendors, off-site parking arrangements, designated areas for taxi and rideshare pick up/drop off, promotional programs with rideshare vendors, joint

event ticketing programs with public transit agencies and expanded shuttle operations.

- a) Compliance with San Diego Water Board General Permit.
 - 1) Prior to the Executive Director's issuance of a permit pursuant to this article, the Applicant shall demonstrate that it has applied for coverage and has been enrolled under the San Diego Water Board General Permit.
 - 2) The Applicant shall comply with all applicable terms, conditions and Best Management Practices required by the San Diego Water Board General Permit, which shall be incorporated into and considered in the terms, conditions and Best Management Practices of any permit issued by the Executive Director pursuant to this article.
 - 3) The Applicant shall submit to the District copies of all applications, plans, reports and other documentation required by the San Diego Water Board General Permit, including without limitation the Notice of Intent, Fireworks Best Management Practices Plan, Public Fireworks Display Log and the Public Display

of Fireworks Post Event Report, within the time required for the submission of such reports to the San Diego Water Board.

- (i) Compliance with Other Required Permits: Prior to the Executive Director's issuance of a Permit pursuant to this article, the Applicant shall demonstrate that it has obtained and shall comply with all other permits and approvals required by federal, state and local laws and regulations including, without limitation, such permits and approvals as are required by the United States Coast Guard, California Coastal Act, the District Code, including Article 10 (Stormwater Management and Discharge Control), and the fire marshal of any city which has jurisdiction over all or any part of the activity allowed under said Permit.
- (j) Compliance with Laws: The Applicant shall comply with any and all applicable rules and regulations promulgated by the District, including without limitation the District Code, the Chula Vista Bayfront Master Plan Settlement Agreement and Natural Resources Management Plan, and with the laws, rules and regulations of the United States of America and the State of California, and of any department or agency thereof, and with the applicable ordinances, rules and regulations of any city which has jurisdiction over all or any part of the activity allowed under said Permit. The Applicant's failure to comply with any applicable law, ordinance, rule

or regulation shall be cause for immediate revocation of said permit and for the denial of applications for future Permits.

- (k) Indemnity: The Applicant shall indemnify and hold harmless the District, its board, officers and employees, from any and all claim of loss, liability or damage arising out of the Fireworks Display Event, including but not limited to the issuance of the District Permit, or in connection with the handling, possession, storage, loading, staging, launching or detonating of Fireworks by the Applicant, its officers, employees, contractors, agents or other representatives, howsoever caused, whether such loss, liability or damage results, either directly or indirectly, from the acts, omissions or negligence of the Applicant, its officers, employees, contractors, agents or other representatives, in connection with the handling, possession, storage, loading, staging, launching or detonation of Fireworks pursuant to said Permit.
- (l) Insurance: The Applicant shall file with the Executive Director, in a form approved by the District General Counsel, a policy of public liability and property damage insurance, in such amounts and form as the Executive Director may specify, indemnifying the District, its boards, officers and employees, as their interest may appear under the terms and conditions of said Permit. The Permit shall not become effective until after such policy of insurance has been received by the District.

- (m) Performance Bond: For public Fireworks Display Events with over 500 spectators the Applicant shall post a faithful performance bond, in a form approved by the District General Counsel, or in lieu thereof the equivalent in cash, in an amount sufficient in the opinion of the Executive Director to cover costs associated with the Fireworks Display Event allowed under the permit, including without limitation the costs of providing security for the protection of sensitive species and habitat, and cleaning up and removing debris, rubbish and trash. The permit shall not become effective until after such faithful performance bond, or cash in lieu thereof, has been posted with and received by the District.
- (n) Mitigation Measures: All permit applications shall be reviewed by the District for consistency with the Mitigation Monitoring and Reporting Program (MMRP) from the Final Environmental Impact Report for the San Diego Bay and Imperial Beach Oceanfront Fireworks Display Events Project, as certified by the Board of Port Commissioners, and all applicable mitigation measures from the MMRP shall be identified as required conditions of the approved permit issued by the District.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.08 – GENERAL PROVISIONS

- (a) Preemption. The provisions of this article do not apply where any federal or state law regulates the handling, possession, storage, loading, staging, launching or detonating of Fireworks if the federal or state law preempts local regulation or the federal or state law is more restrictive.
- (b) Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provisions or application, and to this end the provisions of this section are severable.
- (c) Cost Recovery. The Applicant shall pay a fee to the District for the cost of services and administrative acts of the District incurred in processing a permit application.

(Enacted May 25, 2017 – Ordinance No. 2892)

SECTION NO. 14.09 – ENFORCEMENT

Any person who violates this article or who fails to comply with the terms and conditions of a permit issued pursuant to this article shall be subject to punishment in accordance with District Code section 0.11, General Penalty, and section 0.13, Permit Violations.

(Enacted May 25, 2017 – Ordinance No. 2892)

ARTICLE 15

WIRELESS COMMUNICATION FACILITIES

SECTION NO. 15.01 TITLE

The title of this Article shall be known as “Regulation of Wireless Communication Facilities on District Tidelands.”

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.02 – PURPOSE

The purpose of this article is to establish standards for managing, processing, and acting upon requests for the placement and modification of wireless communication facilities (“WCF”) on District Tidelands. Nothing in this Article shall be construed to limit or otherwise abridge, to any extent, the District’s exercise of its authority (1) as a property owner, trustee, and/or landlord and in a proprietary capacity for the benefit of the public pursuant to the San Diego Unified Port District Act (“Port Act”), (2) as a trustee of District tidelands, which are subject to the California Public Trust Doctrine (“Public Trust”) (and any other trust obligations) and (3) subject to the requirements of the California Coastal Act, the District’s Coastal Development Permit Regulations, and any other applicable law requiring the protection of natural and coastal resources. This Article does not, expressly or impliedly, expand the scope of applicability of any federal law, state law or Federal Communication Commission (“FCC”) orders or rules (including, as applicable, the shot clock timeframes established by 47CFR §1.6003).

The District reserves its right to exercise all rights, authority and discretion when acting in its proprietary, market-participant, and/or landlord capacity.

The District’s tidelands are a uniquely valuable public resource, closely linked with the character of San Diego Bay, and regulation of WCF installation on District Tidelands is necessary to protect and preserve coastal resources, including aesthetics, physical and visual public access, and sensitive biological resources, as well as

implement and adhere to the Public Trust and Coastal Act. This Article is protective of the public health, safety and welfare, and provides for the orderly deployment of wireless communications facilities through reasonable and appropriate standards to ensure the continued quality of telecommunications services to the public and private entities, while protecting the unique resources and character of District Tidelands, implementation of the Coastal Act and other regulations regarding the preservation of coastal resources, and aiding in furtherance of public access and use of District Tidelands. This Article does not apply to any (1) government-owned and operated WCF, (2) emergency medical care provider-owned and operated WCF, or (3) any WCF that are exempted pursuant to applicable federal or state law. The Article shall not be construed to require or mandate any action that would be inconsistent with applicable federal or state law, including the Coastal Act.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.03 – DEFINITIONS

For purposes of this article, certain words and phrases not otherwise defined in District Code section 0.03 shall be defined as follows:

- (a) “Base Section” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which defined the term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time and application is filed with the District under this Article, supports or houses equipment described in

47 C.F.R. Sections 1.6100(b)(1)(i) and (ii) that has been reviewed and approved by the District, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time an application is filled with the District under this Article, does not support or house equipment described in 47 C.F.R.

Sections 1.6100(b)(1)(i) and (ii).

(b) “Board or BPC” means the Board of Port Commissioners of the District.

(c) “Collocation”

1. For the purposes of any Spectrum Act Section 6409(a) modification (Eligible Facilities Request (EFR)), the same as defined by the FCC in 47 C.F.R. §1.6100(b)(2), as may be amended, which defines that term as “the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.” As an illustration and not a limitation, the FCC’s definition means to add transmission equipment to an existing facility and does not necessarily refer to two or more different facility operators in the same location.

2. For all other purposes, the same as defined in 47 C.F.R. § 1.6002(g)(1) and (2), as may be amended, which defines “collocation” as: (1) mounting or installing an antenna facility on a

pre-existing structure, and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

- (d) “District Tidelands” means those lands, including the PROW, granted to and held, controlled or operated by the District, as trustee, pursuant to and consistent with the Port Act.
- (e) “Eligible Facilities Request” means the same as in 47 CFR 1.6100(b)(3), which defines the term to mean any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station that does not substantially change the physical dimensions of such tower or base station and involves (1) the collocation of new transmission equipment, (2) the removal of transmission equipment, or (3) the replacement of transmission equipment.
- (f) “Historical Structure” means a historical structure designated by the National Register of Historical Places, the California Register of Historical Resources, and/or any applicable local register.
- (g) “Public Right of Way or PROW” means a public street, highway, sidewalk associated with a public street or highway, street island, median or parkway, that is owned, operated, or controlled by the District. PROW does not include Promenades Piers, Parks, or other accessible public

lands held in trust and managed for the benefit of the public pursuant to the Port Act, as may or may not be designated in the Port Master Plan.

- (h) “Sensitive Habitat Area” means any area in which plant or animal life or their habitats are wither rare and/or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.
- (i) “Small Cell Wireless Facility” means consistent with the definition in 47 CFR 1.6002(l), a facility that meets each of the following conditions:
 - 1. The facility:
 - a) is mounted on structures fifty (50) feet or less height including their antennas; or
 - b) is mounted on structures no more than ten percent (10%) taller than other adjacent structures; or
 - c) do not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten percent (10%), whichever is greater.
 - 2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 CFR Section 1.1320(d)), is no more than three (3) cubic feet in volume;

3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume;
 4. The facility does not require antenna structure registration under 47 CFR part 17;
 5. The facility is not located on tribal lands, as defined under 36 CFR Section 800.16(x); and
 6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 CFR Section 1.1307(b).
- (j) “Stealth Facility” means a WCF that utilizes concealment techniques that substantively screen the WCF from public view or integrate the WCF with the surrounding natural or built environmental such that, given the particular context visual detection of the WCF by the average, untrained observer is difficult.
- (k) “Structure” means an element, facility, or equipment which is attached to, constructed on, or built into the ground, either directly or indirectly. This term includes, without limitation, building, streetlights, traffic signals, utility poles, signage and are installations.

- (l) “Tower” means the same as defined by the FCC in 47 C.F.R. Section 1.6100(b)(9), as may be amended, which defines the terms as any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.
- (m) “Wireless Communication Facility or WCF” means the transmitters, antennas, remote radio units (RRUs) support structures, and other types of installations used for the provision of wireless services at a fixed location, including, without limitation, any associated tower(s), support structure(s), base station(s), and any other accessory equipment related to the provision of wireless service. Wireless Communication Facility includes a Small Cell Wireless Facility.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.04 – APPLICATION PROCEDURES

- (a) Application Requirements.
 - 1. Application Process: Any applicant proposing to locate a WCF on District Tidelands shall submit a wireless-specific application. The submission of an application and the District's consideration of same shall in no way limit or otherwise abridge, to any extent, the District's exercise of its authority as a property owner, trustee, and/or landlord and in a proprietary capacity for the benefit of the public pursuant to the Port Act.
 - 2. Content: Any application for a WCF must contain, subject to Section 15.04(a)4 below, at a minimum:
 - a) Any information required by Board of Port Commissioners Policy No. 357, as amended.
 - b) The name of the applicant, its telephone number and contact information, and the name and contact information of any wireless services provider that will be using the WCF.
 - c) The name of the owner and/or master lessee, as applicable, of the structure or property on which the WCF will be located, and written owner and/or master lessee

authorization for use of the structure or property for the proposed WCF.

- d) If located on District Tidelands that are subject to an existing leasehold, a copy of the proposed real estate agreement (with confidential or proprietary information redacted, as approved by the District) between the applicant and the master lessee(s) of the property on which the proposed WCF is proposed to be located, attached or installed.
- e) A complete description of the proposed WCF and all work that will be required to install, modify, maintain, or allow functioning of the WCF, including, but not limited to: (a) detail regarding proposed excavations, if any; (b) detailed site plans showing the location of the WCF, and dimensioned drawings with specifications for each element of the WCF, clearly describing the site and any and all structures and/or facilities both (b1) at the site before installation or modification of the facilities; (c) a dimensioned map identifying, describing, and depicting the location of existing structures within one hundred (100) feet, in all directions, of the proposed WCF, and identifying any residential dwelling unit(s) and/or any historical structure(s)

within three hundred (300) feet, in all directions regardless of jurisdictional boundaries, of the WCF, unless the application is for an EFR; (d) before and after scaled photo simulations that depict the proposed location prior to and following the proposed installation; (e) details related to the infrastructure, facilities, and other equipment to be installed; and (f) existing and proposed (by applicant) property lines and distances from associated boundaries.

- f) A description of and documentation demonstrating that the proposed WCF will comply with generally-applicable health and safety standards of the Port Code, regulations and standards of the associated member-city jurisdiction, as may be applicable, and FCC rules and standards, including radio frequency emissions standards.
- g) All manufacturer's specifications for all noise-generating equipment, such as air conditioning units and back-up generators, including the equipment decibel rating for both maintenance cycling and continual operation modes. If the manufacturer's specifications or other information suggest that noise generated by the proposed WCF would exceed applicable noise standards of the city within which WCF is

proposed (City of San Diego, City of Chula Vista, City of Coronado, City of National City, or City of Imperial Beach), a noise memo or study confirming compliance with applicable standards and/or demonstrating the maximum noise output for the WCF. If an applicant has prepared and submitted a noise study for a specific WCF design, a subsequent noise study is not required for the exact same design (inclusive of all components and technical features).

- h) If the application is for a Small Cell Wireless Facility, the application shall state as such and explain how the proposed WCF meets the definition of Small Cell Wireless Facility.
- i) If the application is for an EFR, consistent with applicable law, the application shall state such expressly and must contain information sufficient to demonstrate that the application qualifies as an EFR, consistent with applicable law.
- j) Any application for a WCF that either (1) is proposed to be located in a Tier 2 or Tier 3 Location or (2) which seeks an exception pursuant to Section 15.01(l), below, must include (a) a minimum of two (2) alternative designs and/or locations for each proposed WCF, and (b) map identifying the search

area used by the applicant to identify the proposed location (a “Search Ring”) unless the application is for an EFR.

- k) Any requires fees, as per BPC Policy No. 106, Cost Recovery User Policy, as amended. If the applicant has questions regarding applicable fees, the applicant should reach out to the District’s Development Services Department.

- 3. Application Fees: The payment of applicable application fees shall in no way be construed to guarantee approval of any specific proposed WCF or otherwise constrain the District, as landlord operating in its proprietary capacity, to the extent applicable, from requiring rent or other fees consistent with applicable leasing procedures and standards of the District or the Port Act.

- 4. Waiver:

- a) An applicant may request a waiver from any of the submittal requirements specified in this Section, provided that such request shall be made in writing and at the time that the application is submitted. The Executive Director (or his or her designee) may grant or deny a request for a waiver, in his or her sole discretion, provided that any approval of a waiver must be accompanied by a finding that,

notwithstanding the issuance of a waiver, the District will have sufficient information regarding the proposed WCF to understand the nature of construction and installation proposed by the project. All waivers approved pursuant to this subsection shall be narrowly tailored to minimize deviation from the requirements of this Article and shall apply only to the specific project identified.

- b) Requests for waivers of cost recovery fees under BPC Policy No. 106 are not covered by this subsection and a request for a waiver of any fees under that policy would need to be requested and approved in accordance with that policy.

(b) Design Standards.

- 1. Any application submitted to construct a WCF shall adhere to and be designed consistent with the Design Standards, as outlined in Section 15.05, unless the application is an EFR or an exception is requested and approved according to Section 15.05(l). All applicants shall, to the extent feasible, design a WCF to be a Stealth Facility.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.05 – DESIGN STANDARDS

All WCF, except for an EFR, shall be designed in the least visible means feasible and to be the least disruptive to the appearance of the primary use on a parcel as feasible. A WCF, except for an EFR, shall be a Stealth Facility and utilize the smallest, least visually intrusive design to minimize visual impacts. All WCF, except for an EFR, must be compatible with proposed support structure and surroundings, including with respect to color, materials, size, and scale, and shall use all reasonable means to hide and conceal the WCF through design integration and screening. The District retains all discretion to determine that a proposed WCF does not satisfy the requirements of this Section, except as may be limited by federal or state law (such as an EFR).

(a) Locations.

1. Recognizing the unique visual and aesthetic value of District Tidelands, the District prioritized the location of WCF in certain locations, as specified below and ranked in order of preference (with Tier 1 Location being the most preferred and Tier 3 being the least preferred). To the extent a proposed location falls within two or more tiers, the more restrictive tier will be deemed to apply. However, a proposal for the location of a WCF in a specific location, whether a Tier 1 Location or otherwise, does not constitute a

guarantee of approval and all proposed WCF must comply with the requirements of this Article. If an applicant proposes to locate a WCF in a Tier 2 Location or Tier 3 Location (as defined below), except for an EFR, the applicant must submit evidence (such as a map or figures) demonstrating why no preferred tier locations (as characterized below) in the applicant's target service area are feasible as a location for the proposed WCF.

- a) Tier 1 Locations:
 - 1) PROW in wholly commercial or industrial areas.
 - 2) Within existing buildings or located on the roof of an existing building, provided the WCF is not visible from publicly accessible areas, regardless of location within any other less preferred tier.
 - 3) All locations not identified as a Tier 2 Location or a Tier 3 Location.
- b) Tier 2 Locations:
 - 1) Within one hundred and fifty (150) feet, in any direction, of any Historic Structure.

- 2) Any Parks, open spaces, or areas of recreation, as may not be designated in the certified Port Master Plan.
 - 3) Areas if Piers that are used for wholly for commercial or industrial purposes, provided that the WCF does not obstruct or impeded views of San Diego Bay or the Pacific Ocean.
 - 4) Any undeveloped District Tidelands.
 - 5) Any area between the first inland PROW paralleling the Pacific Ocean and the Pacific Ocean.
 - 6) All locations that would result in an adverse impact to coastal resources, other than those identified as Tier 3 Locations as per Section 15.05(a)1(c).
- c) Tier 3 Locations:
- 1) Within a View Corridor or Vista Area, as designated in the Certified Port Master Plan.

- 2) Within thirty (30) feet, in any direction, of any Promenade, unless substantially screened from view from the Promenade.
 - 3) Promenades, as may be designated in the certified Port Master Plan.
 - 4) Piers, including but not limited to Fishing Piers as Designated in the certified Port Master Plan.
 - 5) Within one hundred (100) feet, in any direction, of any Sensitive habitat Areas or adjacent areas where siting would degrade those areas or resources.
- (b) Size. Any WCF shall be the smallest size feasible.
- (c) Stealth. To effectively avoid or minimize visual clutter and intrusiveness, WCF shall be stealth to the extent feasible.
1. The following principles aid in designing a Stealth Facility:
 - a) WCF shall match the color, texture, materials, and aesthetics of the structure to which they are attached or mounted.
 - b) WCF shall prioritize integration into or concealment within a structure, as opposed to visible mounting or land-based

construction that relies on screening and/or construction of a new structure.

- c) If constructed on or attached to a building façade, ECF shall be integrated into architectural elements (appearing flush within a wall or hiding in a cupola). The design elements of existing building facades should be replicated.
 - d) Whenever feasible, a WCF shall be placed on existing structures or replacement structures.
 - e) All cabling shall be concealed and routed internally through the existing structure.
 - f) All proposed vertical elements of the WCF shall replicate the design, diameter, and proportion of the vertical elements to be imitated when aiding with concealment.
 - g) WCF should not materially obstruct views from, to light passage into, any adjacent window(s).
- (d) Underground. All WCF equipment must be integrated or concealed to the maximum extent possible, consistent with the requirements in (c)(1) of this Section. If underground is technically feasible and would be necessary to achieve a Stealth Facility design, WCF equipment must be placed underground. All vaults and pull boxes shall be installed flush to grade.

1. If required, ground-mounted equipment shall be stealth and incorporate camouflaging and shrouding to match the colors, appearance, and materials of existing facilities and screen equipment from public view. Further, any ground-mounted equipment must be enclosed in cabinets, sized only for the necessary equipment and camouflaged using paint that matches the surrounding environment.
- (e) Security. All equipment and facilities shall be installed in a manner to avoid being an attractive nuisance and to prevent unauthorized access, climbing, graffiti, and vandalism.
- (f) Safety. All WCF, including each piece of equipment, shall be located and placed in a manner so as to not interfere with the use of the PROW; impede the flow of vehicular, bicycle, or pedestrian traffic; impair the primary use and purpose or poles, signs, and traffic signals or other infrastructure; interfere with outdoor dining areas or emergency facilities; or otherwise obstruct the accessibility of the PROW or property. Further, all WCF and associated equipment shall comply with applicable Americans with Disabilities Act requirements.

- (g) Noise. WCF and all accessory equipment and transmission equipment must comply with all the noise regulations of the city in which the WCF will be constructed.
- (h) Lighting. No WCF (that is not a light pole) shall have illumination unless specially required by the Federal Aviation Administration or other government agency. Any required lighting shall be shielded to eliminate impacts on the surrounding areas and sensitive biological resources.
- (i) Signs. No WCF may display any signage or advertisement unless it is expressly allowed by this Section or requires by law or a permit condition. Every WCF shall at all times discretely display signage that accurately identifies the WCF owner and provides the owner's unique site number and a local or toll-free telephone number to contact the WCF owner's operations center.
- (j) Landscaping. In addition to any landscaping proposed by the applicant for concealment or screening purposes, the applicant shall repair and/or replace any existing landscaping displaced during construction or installation of the applicant's WCF. The applicant's landscaping plan shall be subject to the District's review and approval but shall, at a minimum match the existing landscaping and foliage surrounding the installation site.

(k) Pole-Mounted WCF. Any pole-mounted WCF must be comply with the following standards, in addition to the requirements and standards identified above:

1. WCF on Existing Poles:

a) Stealth. The WCF should be a Stealth Facility.

b) Antennas and RRUs. Antennas and RRUs shall be integrated in the least visually intrusive manner.

c) Dimensions. Each antenna shall be of the smallest size technically feasible, but in no case more than three 93 cubic feet in volume.

1) A pole-top WCF, including shroud, shall be of the smallest size technically feasible, but in no case more than eighty-four (84) inches in height and twenty (20) inches in diameter

2) All side-mounted WCFs shall be of the smallest size technically feasible and shall not project from the pole more than twelve (12) inches.

d) Cables and Wiring. All cables and wiring must be within the pole. If location within the pole is not feasible, all cables and wiring must be within the conduit on the exterior of the pole.

The conduit must be a color that matches the pole and of the smallest size technically feasible.

2. Replacement Pole. If an applicant proposes or is required to install a replacement pole to accommodate the proposed WCF.
 - a) Placement. A replacement pole must be installed in the same location as the pole that it is replacing or as close to the original location as feasible, taking into account pole owner safety-related requirements and all applicable location and placement standards herein.
 - b) Design. A replacement pole should match the design (e.g., color, dimensions, height style and materials) of the existing pole that is being replaced to the greatest extent feasible. A replacement pole for a WCF can exceed the height, diameter, and proportion of an original pole, up to a maximum of 10 (ten) percent to the extent needed to feasible integrate antennas, accessory equipment, and interior cabling and wiring, if the exceedance would be greater than 10 (ten) percent, a replacement pole with WCF components mounted to the exterior may be proposed.
 - c) Cables and Wiring. All cables and wiring must be concealed within the structure.

- d) Stealth. The WCF, inclusive of the replacement pole, should be a Stealth Facility.
- e) If the WCF proposes a replacement pole with components of the WCF mounted to the exterior of the pole, the provisions of Section 15.05(k)1 shall apply.

3.New (Non-Replacement) Poles.

- a) Exception Required. New poles are prohibited, unless an exception is approved by the District.
- b) Design. A new pole shall have a maximum height of thirty-five (35) feet, including WCF, and a maximum diameter of 14 inches, and any base enclosure shall not exceed 24 inches in width or height. If existing poles are present in the surrounding area, then the new poles in appearance, color materials, and distribution pattern/spacing.
- c) New Wooden poles are prohibited.
- d) Cables and Wiring. All cables and wiring must be concealed within the pole.
- e) Antennas and RRUs. Antennas and RRUs shall be contained within the pole and its base.
- f) Stealth. The WCF must be a Stealth Facility

- (l) General Orders. All installations shall comply with applicable California Public Utilities Commission (“CPUC”) General Orders, including, but not limited to General Order 95. None of the design standards are meant to conflict with or cause a violation of CPUC General Orders. Accordingly, project consistency with this code may be evaluated on a case-by case basis if it is demonstrated that deviation is necessary to ensure compliance with CPUC rules on safety.
- (m) Exception
 - 1. The Executive director (or his or her designee) may, at his or her sole discretion and consistent with the criteria below and the requirements of the Article, grants an exception in any of the following circumstances:
 - a) If an applicant demonstrates to the District, in writing that the applicant is unable to propose a project that complies with specific identified requirements of this Article, and denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations. All exceptions approved pursuant to this subsection shall be (1) granted only on a case by case

- basis, and (2) narrowly-tailored so that the requirements of these design standards are waived only to the minimum extent requires to avoid the prohibition or violation; or
- b) If an applicant demonstrated to the District, in writing, with evidence set forth in a feasibility study that (1) compliance with a requirement of Section 15.05(e)-(k), above, would be technically infeasible, (2) the proposed WCF complies with the requirements of these design standards to the greatest extent technically feasible, and (3) the proposed WCF would meet the intent and goals of this Article with respect to protection of coastal resources (including aesthetics, sensitive biological resources, and visual and physical public access); or
- c) If an applicant demonstrates to the District, in writing, that the particular engineering, design or location proposed involves only minor non-compliance, as determined by the District, with a requirement of these design standards but such non-compliance either results in no increase in adverse impacts to coastal resources, the public, other uses and users of tidelands, or provides other benefits. For example, and exception to the WCF location limitations may be

granted when the applicant can demonstrate that the placement is less visible from public viewsheds or shielded by vegetation or existing infrastructure (such as barriers or structures), or is less physically intrusive (for example, less impactful to tree roots or reduces noise), or the applicant can demonstrate that in a multi-site deployment, the placement would reduce the overall number of sites needed and be no more visibly or physically intrusive than placement in accordance with the WCF location criteria; or

- d) For new non-replacement poles, if the applicant demonstrated to the District in writing that the design better achieves “stealth” design and consistency with the intent and standards of the Design Standards than use of existing or replacement infrastructure. The applicant must submit evidence of existing infrastructure within the applicant’s target placement area and describe why alternatives to the new non-replacement pole are not feasible or why the use of the proposed non-replacement structure better achieves “stealth” design.

- 2. Among other factors, in deciding whether or not to grant an exception, the District may consider the impact of future expansions

to the WCF that the applicant or other party may be entitled to make as of right if granted.

3. any exceptions must be requested in writing. The request must include both the specific Section(s) from which exception is sought and the basis of the request, including all supporting evidence on which the applicant relies. Any request for exception after the District has deemed an application complete constitutes a material charge to the proposed WCF and shall be considered a new application. A request for exception from one or more requirements of this Article does not relieve the applicant from compliance with all other applicable provisions of law or of the District's regulations.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.06 – GENERAL REQUIREMENTS

- (a) All WCF shall use flat-rate electric service or other method that removes the need for a separate above-grade electric meter. If flat-rate service is not available, applicants should install a stealth smart meter. Any separate ground-mounted electric meter pedestals and discouraged.
- (b) All WCF are required to have a disconnect switch, which should be mounted and treated to match the existing design.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.07 – LEGAL NON-CONFORMING WCF

A WCF that was lawfully constructed, erected, or approved before the effective date of this Article, provided such WCF secured all necessary approvals, real estate agreements, and permits from applicable agencies, and this is operating in compliance with all applicable laws, and which facility does not conform to the requirements of this Article shall be deemed a legal non-conforming WCF.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.08 - REMOVAL

Any operator of a WCF that intends to abandon or discontinue use of a WCF must notify the District, in writing, as per the real estate agreement for the WCF or, if there is no real estate agreement, written notification shall be provided no less than thirty (30) days prior to such abandonment or discontinuance of use. The operator shall have ninety (90) days from the date of abandonment or discontinuance of use, commencing from the District's receipt of the written notification, or a reasonable amount of additional time as may be approved by the District, to (1) obtain necessary permits to remove the WCF, complete removal of WCF and restore the site to its original condition or as otherwise specified by District, (2) obtain necessary approvals and real estate agreements to transfer the rights to use the WCF to another telecom operator or owner, or (3) continue to use the WCF. If an operator of a WCF fails to remove a WCF, as may be required by this Section or their real estate agreement, the District may remove the WCF at the operator's sole cost and such operator shall be liable for the entire cost of removal, repair, restoration, and storage (if any) associated with the WCF.

(Enacted April 12, 2022 – Ordinance No. 3041)

SECTION 15.09 – DENIAL

If an applicant submits a completed application to the District, complying with all requirements outlined in 15.04(a), the District's denial of any complete application will be in writing and comply with applicable law.

(Enacted April 12, 2022 – Ordinance No. 3041)

SAN DIEGO UNIFIED PORT DISTRICT

Code Check List

CODE SECTION	LAST BPC ACTION DATE	PREVAILING ORDINANCE	SUPERSEDED ORDINANCES
0.01	3/14/1963	19	
0.02	3/14/1963	19	
0.03	9/6/2005	2355	19
0.04	3/14/1963	19	
0.05	9/6/2005	2355	19
0.06	3/14/1963	19	
0.07	3/14/1963	19	
0.08	3/14/1963	19	
0.09	3/14/1963	19	
0.10	3/14/1963	19	
0.11	10/9/2007	2472	2147, 600, 19
0.12	3/14/1963	19	
0.13	10/9/2007	2473	2185
0.14	11/18/2003	2275	2195, 2184
0.15	6/18/1974	656	495, 88
2.00	5/7/2013	2720	
2.00	6/11/2013	Fee Schedule Adopted by Minutes	
2.00	4/15/2014	2763	2720
2.01	2/10/2015	2797	2794, 2776
3.00	4/3/2024	3129	
3.01	4/3/2024	3129	
3.02	4/3/2024	3129	
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3.04	4/3/2024	3129	
3.05	4/3/2024	3129	
3.06	4/3/2024	3129	
3.07	4/3/2024	3129	
3.08	4/3/2024	3129	
4.01	3/9/2004	2283	783, 730, 215
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4.03	4/5/1966	215	
4.04	4/5/1966	215	
4.05	4/5/1966	215	
4.06	4/5/1966	215	
4.07	3/28/1972	566	
4.08	6/9/1998	1982	1277, 1135
4.09	12/14/2021	3032	2932, 1785, 1064
4.10	10/8/2013	2741	227
4.11	10/8/2013	Repealed by Ordinance 2741	227
4.12	10/8/2013	Repealed by Ordinance 2741	227
4.13	10/8/2013	2741	227
4.14	8/14/2012	2684	2645
4.20		Repealed by Ordinance 1982	1695, 1102
4.23		Repealed by Ordinance 1982	1696, 1301
4.25		Repealed by Ordinance 1982	1697, 1117

SAN DIEGO UNIFIED PORT DISTRICT
Code Check List

CODE SECTION	LAST BPC ACTION DATE	PREVAILING ORDINANCE	SUPERSEDED ORDINANCES
4.27		Repealed by Ordinance 1982	1698, 1351
4.30	3/9/2004	2284	1435, 1200
4.35	9/2/2008	2252	2285, 1436, 1201
4.36	9/2/2008	2252	2413, 2286, 2107
4.37	2/20/2001	2123	
4.38	5/9/2023	3092	2522, 2487, 2250
4.40	3/9/2004	2287	1636
5.01	9/6/2005	Repealed By Ordinance 2355	145
5.02	9/6/2005	Repealed By Ordinance 2355	1492, 488, 145
5.03	9/6/2005	Repealed By Ordinance 2355	145
5.04	9/6/2005	Repealed By Ordinance 2355	145
5.05	9/6/2005	Repealed By Ordinance 2355	1635, 1162, 145
5.06	9/6/2005	Repealed By Ordinance 2355	602, 547, 145
5.07	9/6/2005	Repealed By Ordinance 2355	2085, 145
5.08	9/6/2005	Repealed By Ordinance 2355	1544, 488
5.09	9/6/2005	Repealed By Ordinance 2355	556
5.10	9/6/2005	Repealed By Ordinance 2355	2037, 1379
5.15	9/6/2005	Repealed By Ordinance 2355	1979, 1824, 1818
5.80	9/6/2005	Repealed By Ordinance 2355	2200, 2119
5.81	9/6/2005	Repealed By Ordinance 2355	2149, 2119
5.82	9/6/2005	Repealed By Ordinance 2355	2119
5.83	9/6/2005	Repealed By Ordinance 2355	2119
5.84	9/6/2005	Repealed By Ordinance 2355	2119
5.85	9/6/2005	Repealed By Ordinance 2355	2119
5.86	9/6/2005	Repealed By Ordinance 2355	2119
5.87	9/6/2005	Repealed By Ordinance 2355	2119
5.88	9/6/2005	Repealed By Ordinance 2355	2119
5.89	9/6/2005	Repealed By Ordinance 2355	2119
5.90	9/6/2005	Repealed By Ordinance 2355	2119, 1911, 1581, 955, 396
5.91	9/6/2005	Repealed By Ordinance 2355	2119, 1911, 1617, 1581, 1207, 1068, 1028, 955, 396
5.92	9/6/2005	Repealed By Ordinance 2355	2119, 1911, 1617, 1581, 1250, 1207, 1195, 1068, 1028, 1005, 955, 396
5.93	9/6/2005	Repealed By Ordinance 2355	2119, 1911, 1581, 1207, 955, 396
5.94	9/6/2005	Repealed By Ordinance 2355	2119, 1911, 1581, 955
5.95		Repealed By Ordinance 2119	1911, 1207, 955
5.96		Repealed By Ordinance 2119	1207, 955
8.01	9/6/2005	2355	20
8.02	8/13/2024	3134	3079, 2778, 2684, 2517, 2450, 2430, 2355, 1693, 1422, 1342, 1293, 1208, 1078, 879
8.03	9/6/2005	2355	879

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Code Check List

CODE SECTION	LAST BPC ACTION DATE	PREVAILING ORDINANCE	SUPERSEDED ORDINANCES
8.04	1/12/2016	Amended by 2847	Repealed by 2685, 2355, 1564, 1461, 1452
8.05	11/14/2023	3110	3075, 2963, 2762, 2683, 1341, 1141, 118
8.06	10/5/1999	2068	
8.07	8/21/2001	2145	
8.08	12/5/2006	2430	
8.09	4/11/2023	3084	2552
8.10	9/8/2016	2872	2855, 2816, 2809, 2806, 2392, 2355, 1534, 1330, 1039, 877, 642, 332, 179, 61
8.11	4/11/2023	3084	2869, 2355, 1604, 61
8.12	5/9/1963	61	
8.13	5/9/1963	61	
8.14	9/8/2016	2872	2855, 2816, 2810, 2806, 2355, 1911, 1494, 642, 61
8.15	9/8/2016	2871	2775, 2668, 2637, 2355, 1701, 1604, 1354, 1155, 1016, 986, 959, 945, 850, 491, 61
8.16	9/8/2016	2870	2355, 1017, 601, 133
8.17	9/16/1997	1911	133
8.18	2/12/2008	2488	217
8.19	4/12/1966	218	
8.20	9/16/1997	1911	987
8.21	5/9/2023	3090	2856, 2817, 2812, 2811, 2807, 2774, 2761
8.22	4/12/1966	220	
8.23	4/12/1966	221	
8.24	9/6/2005	2355	222
8.25	9/4/2001	2148	1498, 1198
8.26	9/6/2005	2355	223
8.27	9/6/2005	2355	1168, 817, 635, 321, 224
8.28	9/6/2005	2355	1048
8.29	3/6/2012	2665	
8.30	4/14/2016	2854	
8.31	4/21/2016	2857	
8.32	5/16/2017	2891	
8.50	9/6/2005	2355	62
8.60	9/6/2005	2355	216
8.61	9/6/2005	2355	216
8.62	9/6/2005	2355	216
8.63	4/5/1966	216	
8.64	4/5/1966	216	
8.65	4/5/1966	216	

SAN DIEGO UNIFIED PORT DISTRICT
Code Check List

CODE SECTION	LAST BPC ACTION DATE	PREVAILING ORDINANCE	SUPERSEDED ORDINANCES
8.66	4/5/1966	216	
8.67	4/5/1966	216	
8.68	9/6/2005	2355	216
8.69	9/6/2005	2355	216
8.70	9/6/2005	2355	216
8.71	9/6/2005	2355	216
8.72	9/6/2005	2355	226
9.01 Repealed	# Re-used		994, 550
9.02 Repealed	# Re-used		994, 550
9.03 Repealed	# Re-used		994, 550
9.04 Repealed	# Re-used		994, 550
9.05 Repealed	# Re-used		994, 550
9.06 Repealed	# Re-used		994, 550
9.07 Repealed	# Re-used		994, 550
9.08 Repealed	# Re-used		994, 550
9.09 Repealed	# Re-used		994, 550
9.10 Repealed	# Re-used		994, 550
9.01	5/26/1998	1980	
9.02	5/26/1998	1980	
9.03	9/6/2005	2355	1980
9.04	5/26/1998	1980	
9.05	5/26/1998	1980	
9.06	5/26/1998	1980	
9.07	5/26/1998	1980	
9.08	5/26/1998	1980	
9.09	5/26/1998	1980	
10.01	5/12/2015	2815	2475, 2105
10.02	5/12/2015	2815	2475, 2105
10.03	5/12/2015	2815	2475, 2105
10.04	5/12/2015	2815	2475, 2105
10.05	5/12/2015	2815	2475, 2105
10.06	5/12/2015	2815	2475, 2105
10.07	5/12/2015	2815	2475, 2105
10.08	5/12/2015	2815	2475, 2105
10.09	5/12/2015	2815	2475, 2105
10.10	5/12/2015	2815	2475, 2105
10.11	5/12/2015	2815	2475, 2105
10.12	5/12/2015	2815	2475, 2105
11.01	2/12/2013	2704	
11.02	2/12/2013	2704	
11.03	2/12/2013	2704	
11.03.5	2/12/2013	2704	
11.04	2/12/2013	2704	
11.05	2/12/2013	2704	
11.06	2/12/2013	2704	
11.07	2/12/2013	2704	

SAN DIEGO UNIFIED PORT DISTRICT

Code Check List

CODE SECTION	LAST BPC ACTION DATE	PREVAILING ORDINANCE	SUPERSEDED ORDINANCES
11.07.5	2/12/2013	2704	
11.08	2/12/2013	2704	
11.08.5	2/12/2013	2704	
11.09	2/12/2013	2704	
11.10	4/13/17	2704	
11.11	2/12/2013	2704	
11.12	2/12/2013	2704	
11.13	2/12/2013	2704	
11.14	2/12/2013	2704	
11.15	2/12/2013	2704	
11.17	2/12/2013	2704	
12.01	12/8/2015	2844	
12.02	12/8/2015	2844	
12.03	12/8/2015	2844	
12.04	12/8/2015	2844	
12.05	12/8/2015	2844	
12.06	12/8/2015	2844	
12.07	12/8/2015	2844	
14.01	5/25/2017	2892	
14.02	5/25/2017	2892	
14.03	5/25/2017	2892	
14.04	5/25/2017	2892	
14.05	5/25/2017	2892	
14.06	5/25/2017	2892	
14.07	5/25/2017	2892	
14.08	5/25/2017	2892	
14.09	5/25/2017	2892	
15.01	4/12/2022	3041	
15.02	4/12/2022	3041	
15.03	4/12/2022	3041	
15.04	4/12/2022	3041	
15.05	4/12/2022	3041	
15.06	4/12/2022	3041	
15.07	4/12/2022	3041	
15.08	4/12/2022	3041	
15.09	4/12/2022	3041	
Conflict of Interest Code	12/13/2022	3072	2977, 2924, 2874, 2788, 2694, 2650, 2623, 2513, 2421, 2313, 2209, 2118, 2011, 1876, 1484, 1353, 1349, 1270, 1166, 1008, 770

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
2025		
2024		
Park Area Regulated	Article 8, Amend Section 8.02	8/13/2024
Tenant Project Review	Article 3, Section 3.00, 3.01, 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08	4/3/2024
2023		
Regulation of Motorized Mobility Devices and Redicabs on District Tidelands	Article 8, Amend Section 8.07	11/14/2023
Vending and Expressive Activity Regulated	Article 8, Amend Section 8.05	11/14/2023
Regulation of Vessels in the A-1 Anchorage, A-5 Anchorage, A-9 Anchorage and Shelter Island Guest Docks	Article 4, Amend Section 4.38	5/9/2023
Parking Rates at Tidelands Public Parking Lots and Garages	Article 8, Amend Section 8.21	5/9/2023
Oversized Vehicle Parking Regulations on Tidelands	Article 8, Amend Section 8.09 & 8.11	4/11/2023
Park Area Regulated	Article 8, Amend Section 8.02	3/14/2023
Vending and Expressive Activity Regulated	Article 8, Amend Section 8.05	2/14/2023
2022		
Regulation of Charter Vessel Operations in San Diego Bay and District Tidelands	Article 4, Amend Section 4.37	6/14/2022
Wireless Communication Facilities	Article 15, Section 15.01, 15.02, 15.03, 15.04, 15.05, 15.06, 15.07, 15.08, 15.09	4/9/2022
2021		
Regulation of Vessels - Tuna Harbor Basin	Article 4, Amend Section 4.09	12/14/2021
Regulation of In-Water Hull Cleaning	Article 4, Amend Section 4.14	10/12/2021
Regulation of Six Pac Charter Vessels	Article 4, Amend Section 4.37	5/11/2021
Parking Regulations - Enforcement	Article 8, Amend Section 8.15	2/11/2021
2020		
NONE		
2019		
Vending and Performing, Regulated	Article 8, Amend Section 8.05	12/10/2019
Parking Meters Time of Operation	Article 8, Amend Section 8.14	4/8/2019

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
2018		
Regulation of Vessels - Tuna Harbor Basin	Article 4, Amend Section 4.09	12/11/2018
Stormwater Management	Article 10, Section 10.1, 10.2, 10.3, 10.6, 10.8, 10.10	10/9/2018
2017		
Fireworks Display	Article 14, Section 14.01, 14.02, 14.03, 14.04, 14.05, 14.06, 14.07, 14.08, 14.09	5/25/2017
Regulating Building Wrap Signage	Article 8, Section 8.32	5/15/2017
2016		
Inclusion of Tidelands Meters and Paystations	Article 8, Amend Section 8.14	9/8/2016
Inclusion of Tidelands Meters and Paystations	Article 8, Amend Section 8.10	9/8/2016
Fines and Violations of Sections 8.16(d) - (f)	Article 8, Amend Section 8.14	9/8/2016
Prohibition of Parking in Disabled Persons Parking Zones; 72-Hour Parking Restrictions; Inoperable Vehicle and Habitation	Article 8, Amend Section 8.16 (d) - (g)	9/8/2016
Authorize Executive Director to Designate Time-Limit Parking Zones	Article 8, Section 8.11 (b)	9/8/2016
Confirming San Diego Unified Port District Authority Over Local Laws	Article 8, Section 8.31	4/21/2016
Regulating all Signage on all Navigatable Waters, Tidelands and Submerged Lands	Article 8, Section 8.30	4/14/2016
Tidelands Public Parking Lot and Garages	Article 8, Amend Section 8.21	4/14/2016
Parking Meter Rates	Article 8, Amend Section 8.14	4/14/2016
Parking Meter Rates	Article 8, Amend Section 8.10	4/14/2016
Prohibiting the Cultivation of Marijuana on District Tidelands	Article 8, Amend Section 8.04	1/12/2016
2015		
Required Reporting of Utility Use on Tidelands	Article 12, Section 12.01, 12.02, 12.03, 12.04, 12.05, 12.06, 12.07	12/8/2015
Stormwater Management and Discharge Control	Article 10, Amend Section 10.01, 10.02, 10.03, 10.04, 10.05, 10.06, 10.07, 10.08, 10.09, 10.10, 10.11, 10.12	5/12/2015
Parking Lot Rates at Tidelands Public Parking Lots and Garages	Article 8, Section 8.21	5/12/2015

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
2015 Continued		
Parking Pilot Program for Tuna Harbor Public Parking Lot, North Embarcadero Public Parking Lot and Ruocco Park Public Parking Lots	Article 8, Rescind Section 8.21	5/12/2015
Parking Meter Rates - Times of Operation	Article 8, Amend Section 8.14	5/12/2015
Parking Meter Rates	Article 8, Amend Section 8.10	5/12/2015
Parking Rates at Tidelands Public Parking Lots and Garages	Article 8, Section 8.21 Repealed and Rescinded by Ordinance 2807	4/27/2015
Parking Pilot Program for Tuna Harbor Public Parking Lot, North Embarcadero Public Parking Lot and Ruocco Park Public Parking Lots	Article 8, Section 8.21 Repealed and Rescinded by Ordinance 2807	4/27/2015
Parking Meters - Time of Operation	Article 8, Section 8.14 Repealed and Rescinded by Ordinance 2806	4/27/2015
Parking Meter Rates	Article 8, Section 8.10 Repealed and Rescinded by Ordinance 2806	4/27/2015
Parking Rates at Tidelands Public Parking Lots and Garages	Article 8, Section 8.21	4/14/2015
Parking Pilot Program for Tuna Harbor Public Parking Lot, North Embarcadero Public Parking Lot and Ruocco Park Public Parking Lots	Article 8, Rescind Section 8.21	4/14/2015
Parking Meters - Time of Operation	Article 8, Amend Section 8.14	4/14/2015
Parking Meter Rates	Article 8, Amend Section 8.10	4/14/2015
Cost Recovery User Fee Schedule for District Services	Article 2, Amend Section 2.01	2/10/2015
2014		
Cost Recovery User Fee Schedule for District Services	Article 2, Amend Section 2.01	12/9/2014
Park Areas Regulated	Article 8, Amend Section 8.02	9/16/2014
Parking Pilot Program for Tuna Harbor Public Parking Lot, North Embarcadero Public Parking Lot and Ruocco Park Public Parking Lots	Article 8, Amend Section 8.21	8/12/2014
Parking Regulations - Enforcement	Article 8, Amend Section 8.15	8/12/2014
Cost Recovery User Fee Schedule for District Services	Article 2, Section 2.01	8/12/2014
Parking Pilot Program for Tuna Harbor Public Parking Lot	Article 8, Section 8.21	4/15/2014

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
2014 Continued		
Vending and Performing Regulated	Article 8, Amend Section 8.05	4/15/2014
Cost Recovery User Fee Schedule for District Services	Article 2, Amend Section 2.00	4/15/2014
2013		
Terminal Operator - Agreements Required	Article 4, Section 4.13 Repealed	10/8/2013
Terminal Operator - Tariffs	Article 4, Section 4.12 Repealed	10/8/2013
Terminal Operator - Regulations	Article 4, Section 4.11 Repealed	10/8/2013
Terminal Operator - Defined	Article 4, Amend Section 4.10	10/8/2013
Cost Recovery User Fee Schedule for District Services	Article 2, Section 2.00 Fee Schedule Adopted by Minute Order	6/11/2013
Establishment of Cost recovery User Fee Schedule for District Services	Article 2, Section 2.00	5/7/2013
Regulation of Newracks on Port District Tidelands	Article 11, Section 11.01, 11.02, 11.03, 11.04, 11.05, 11.06, 11.07, 11.07.5, 11.08, 11.08.5, 11.09, 11.10, 11.11, 11.12, 11.13, 11.14, 11.15, 11.16, & 11.17	2/12/2013
2012		
Business and Commercial Activities Regulated	Article 8, Amend Section 8.05	8/14/2012
Non-Profit Sales Regulated	Article 8, Amend Section 8.04	8/14/2012
Park Area Regulated	Article 8, Amend Section 8.02	8/14/2012
Regulation of In- Water Hull Cleaning	Article 4, Amend Section 4.14	8/14/2012
Parking Regulations - Enforcement	Article 8, Amend Section 8.15	5/8/2012
Vehicle Impound Cost recovery Program Fee	Article 8, Section 8.29	3/6/2012
2011		
Regulation of In-Water Hull Cleaning	Article 4, Section 4.14	7/11/2011
Parking Regulations - Enforcement	Article 8, Amend Section 8.15	1/11/2011
2010		
NONE		
2009		
Parking Vehicles, Oversize Vehicles and Trailers Upon Shelter Island	Article 8, Section 8.09	2/3/2009
2008		
Marine Operations	Article 4, Amend Sections 4.35, 4.36 & 4.38	9/2/2008
Park Area Regulated	Article 8, Amend Section 8.02(b)3	8/5/2008
Conflict of Interest Code	Amend Appendix A & C	8/5/2008
Camping and Storage of Personal Property on Tidelands	Article 8, Amend Section 8.18	2/12/2008

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
2008 Continued		
Regulation of Vessels, A-1 Anchorage, A-5 Anchorage and A-9 Anchorage	Article 4, Amend Section 4.38	2/12/2008
2007		
Stormwater Management and Discharge Control	Article 10, Amend Section 10.01, 10.02, 10.03, 10.04, 10.05, 10.06, 10.07, 10.08, 10.09, 10.10, 10.11, & Section 10.12	12/11/2007
Permit Violations	Article 0, Amend Section 0.13	10/9/2007
General Penalty	Article 0, Amend Section 0.11	10/9/2007
Park Area Regulated	Article 8, Amend Section 8.02	5/8/2007
2006		
Smoking Prohibited at Parks and Beaches	Article 8, Amend 8.08	12/5/2006
Park Areas Regulated	Article 8, Amend Section 8.02	12/5/2006
Conflict of Interest Code	Amend Appendix A & C and Add Appendix C	11/7/2006
Regulations of Vessels, A-8 Anchorage	Article 4, Amend Section 4.36	9/5/2006
Parking Meter Rates	Article 8, Amend Section 8.10	5/2/2006
2005		
Deletion of Airport References: Change Title of Port Director to Executive Director	Preamble and Article 0, Amend Section 0.03 & 0.05, Deleting Article 5, Section 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 5.09, 5.10, 5.15, 5.80, 5.81, 5.82, 5.83, 5.84, 5.85, 5.86, 5.87, 5.88, 5.89, 5.90, 5.91, 5.92, 5.92, & 5.94 Article 8, Amend Section 8.01, 8.02, 8.03, 8.04, 8.10, 8.11, 8.14, 8.15, 8.16, 8.25, 8.26, 8.27, 8.28, 8.50, 8.60, 8.61, 8.62, 8.68, 8.69, 8.70, 8.71; and Further Amend Article 8 by deleting Section 8.72 and Article 9, Amend Section 9.03	9/6/2005
2004		
Conflict of Interest Code	Amend Appendix A & B	10/5/2004
North San Diego Bay Anchoring Mooring Aqu Act	Article 4, Amend Section 4.40	3/9/2004
Regulation of Vessels - A-8 Anchorage	Article 4, Amend Section 4.36	3/9/2004
Central San Diego Bay Anchoring Mooring, Aqu Act	Article 4, Amend Section 4.35	3/9/2004
South Sam Diego Bay Anchoring mooring, Aqu Act	Article 4, Amend Section 4.30	3/9/2004

Changes in Port Code (Including Stand Alone Conflict of Interest Code)

ARTICLE/SECTION		BPC MEETING DATES
CODE SUBJECT		
Regulation of Vessels - Disabled, Grounded or Beached	Article 4, Section 4.01	3/9/2004
2003		
Code of Ethics	Article 0, Amend Section 0.14	11/18/2003
2002		
Conflict of Interest Code	Amend Appendix A & Add Appendix B	11/19/2002
Airport Taxicab Permits	Article 5	10/8/2002
Airport	Article 5, Amend Section 5.80(B)(7)	9/17/2002
Code of Ethics	Article 0, Amend Section 0.14	08/20/2002 06/04/2002 05/21/2002 05/07/2002
2001		
Ground Transportation Service Permits	Article 5, Amend Section 5.81	9/17/2001
Watercraft	Article 8, Section 8.25	9/4/2001
Violations - Misdemeanors & Infractions	Article 0, Amend Section 0.11	9/4/2001
Pedicabs	Article 8, Section 8.07	8/21/2001
Regulations of Six Pac Charter Vessels	Article 4, 4.37	2/20/2001
Airport Taxicabs	Article 5	1/30/2001
2000		
Airport	Repeal Section 5.90-5.96, Add Section 5.80-5.94	12/12/2000
Conflict of Interest Code	Amend Exhibit A	12/12/2000
Regulation of Vessels - A-8 Anchorage	Article 4, Section 4.36	8/22/2000
Urban Runoff - Stormwater Program	Article 10, Section 10.1, 10.2, 10.3, 10.6, 10.8, 10.10	7/25/2000
Airport Regulations -Animals	Article 5, Amend Section 5.07	2/22/2000
1999		
Alcohol Regulations	Section 8.06	10/5/1999
Airport Car Rentals	Section 5.10	2/9/1999
1998		
Conflict of Interest Code	Amend Exhibit A	9/29/1998
Anchorage	Article 4, Repeal Sections 4.08, 4.20, 4.23, 4.25, 4.27 Section 4.08	6/9/1998
Debarment	Article 9, Section 9.01, 9.02, 9.03, 9.04, 9.05, 9.06, 9.07, 9.08, 9.09	5/26/1998
Airport	Article 5	5/26/1998