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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SAN DIEGO UNIFIED PORT DISTRICT

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 PROPERTY MANAGEMENT OPERATIONS*
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

*No Code Sections currently active for this category.
SAN DIEGO UNIFIED PORT DISTRICT

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 0
ADMINISTRATION & 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)
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.
Section No. 0.11

(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
Section No. 0.11

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.
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Section No. 0.11

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);

(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.
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).

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.

The decision of the Hearing Officer is final.

13. Failure to Comply With the Administrative Enforcement Order.

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.

After the Hearing Officer issues an Administrative Enforcement Order, the Executive Director shall monitor the violation(s) and determine compliance.


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


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.


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 2
COST 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

<table>
<thead>
<tr>
<th>Real Estate</th>
<th>Fee(1)</th>
<th>Fee Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental Agreement &amp; Tidelands Use and Occupancy Permit – Simple</td>
<td>$1,100</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Tidelands Use and Occupancy Permit – moderate</td>
<td>$2,900</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Tidelands Use and Occupancy Permit – complex</td>
<td>$14,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Easements for Utility Purposes – simple</td>
<td>$1,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Easements for Utility Purposes – complex</td>
<td>$3,200</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Lease Amendments – simple</td>
<td>$3,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Lease Amendments – moderate</td>
<td>$8,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Option to Lease - Amendment – simple</td>
<td>$3,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Option to Lease - Amendment – moderate</td>
<td>$8,000</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Letter Agreements – simple</td>
<td>$900</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Letter Agreements – moderate</td>
<td>$1,800</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Letter Agreements – complex</td>
<td>$2,700</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Vending Permit</td>
<td>$800</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Bait Receiver Permit</td>
<td>$800</td>
<td>Flat Fee</td>
</tr>
<tr>
<td>Transportation Services Permit – simple</td>
<td>$1,100</td>
<td>Flat Fee</td>
</tr>
</tbody>
</table>
## San Diego Unified Port District – Port Code

### Section No. 2.01

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

(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.
San Diego Unified Port District – Port Code

Section No. 2.01

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

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

<table>
<thead>
<tr>
<th>Harbor Police</th>
<th>Fee(1)</th>
<th>Fee Type</th>
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<tr>
<td>Vehicle Release Fee</td>
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<td>Vehicle Impound Hearing</td>
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<td>Subpoena Witness Testimony</td>
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<td>News Rack Permit</td>
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<tr>
<td>News Rack Permit Renewal</td>
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<tr>
<td>News Rack Removal</td>
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<td>Flat Fee</td>
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<tr>
<td>Cargo Escort - Sergeant hourly</td>
<td>$142</td>
<td>Hourly</td>
</tr>
<tr>
<td>Cargo Escort - Officer hourly</td>
<td>$107</td>
<td>Hourly</td>
</tr>
</tbody>
</table>

(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 4
MARINE 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)
(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 bayward 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.


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 cable, 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.
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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 compiled 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

1. 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
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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.
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.

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,
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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 insure 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. 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.

2. 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 of each vessel shall, if requested, authorize, in writing, that the Port of San Diego may obtain 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 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 persons requesting a mooring permit for the first time or for a newly acquired vessel 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 “Voluntary 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.

3. 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.

4. 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) day
time 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 4.09.02 subparts 2, 3, 4, 5, and 9 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:

   a. 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.

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

5. 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.

6. 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 crew members 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).
7. 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.

8. 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.

9. 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.
10. Commercial Fishermen Permit Holder – A “commercial fishermen permit holder,” as referenced 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.

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

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

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

Section 1.

(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
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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 Wharf in 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 daymarkers 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 daymarkers 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)
(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.


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 SIX PAC CHARTER VESSELS

(a) Definitions

1. “Appellant” – a Six Pac charter vessel owner, agent or operator who has filed an appeal of a Charter Permit suspension or revocation pursuant to this Section.

2. “Applicant” – a Six Pac charter vessel owner, agent or operator applying for a Charter Permit pursuant to this Section.

3. “Charter Permit” – a permit issued by a Marina or Sportfishing Landing to a Six Pac charter vessel operation which permits the Permittee, as defined herein, to conduct business in the District pursuant to San Diego Unified Port District Code Section 8.05.


5. “District Clerk” – Clerk of the San Diego Unified Port District.

6. “Executive Director” – Executive Director of the San Diego Unified Port District.

7. “Gross Charter Income” – the total income derived from any Six Pac sportfishing charter operation, from whatever source derived and whether for cash or credit, including deposit. Bad debt losses shall not be deducted from Gross Charter income. Gross Charter Income shall not include the cost of Mexican fishing permit fees and/or California fishing license fees.
8. “Sportfishing Landing” – a San Diego Unified Port District leasehold dedicated exclusively for discharging and taking on passengers for hire on charter vessels, including Six Pac sportfishing charter vessels.

10. “Marina” – a San Diego Unified Port District leasehold used primarily for a vessel docking facility for berthing recreational private pleasure boats.

11. “Permittee” – a Six Pac charter vessel owner, agent, or operator who has been issued a Charter Permit pursuant to this section.

12. “Six Pac” – a sportfishing vessel for hire that carries Six (6) or fewer passengers and which is not subject to annual inspection by the United States Coast Guard.

(b) Regulation of Six Pac Charter Vessels

Marinas and Sportfishing Landings shall be responsible for Six Pac charter vessel operations as set forth in this Section 4.37.

1. Six Pac Charter Vessel Permitting Requirements

a) Each Marina or Sportfishing Landing shall issue paired numbered Charter Permit decals to each permitted Six Pac charter vessel operator. The decals shall be affixed in a visible location to both the exterior port and starboard sides of each vessel's bridge. No vessel shall operate for charter
purposes without the operator first obtaining and displaying said decals. The decal shall not be reassigned, transferred or hypothecated in any manner. The decal shall expire December 31st of the calendar year for which issued, or on the day that the vessel ceases Six Pac charter operations, whichever occurs first.

b) In order to obtain and retain a Charter Permit, the owner(s), agent(s) or operator of each permitted Six Pac charter vessel, and the crew members of each authorized vessel, shall conform to all rules, regulations and policies prescribed by the District; any Ordinances of the City in which the charter vessel is located; and, any laws of the State of California or the Federal Government, as any of the same now exist or may hereinafter be adopted or amended. Failure to comply with any of the above stated laws, rules, regulations or policies shall be grounds for denial of, or for suspension or revocation of the Six Pac Charter Permit.

c) In order to obtain and retain a Charter Permit, the owner(s), agent(s) or operator of each permitted Six Pac charter vessel operation shall maintain commercial general liability insurance as required by Public Utilities Code Section 4663
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(covering operations, products and contractual liability) in full force and effect throughout the period in which the charter vessel is permitted. The District is not required to be named as an additional insured in any such insurance coverage. Failure to maintain acceptable insurance as described above shall be grounds for the denial of, or for suspension or revocation of the Six Pac Charter Permit.

2. Six Pac Charter Vessel Operating Requirements
   a) Prior to departure, each Six Pac charter vessel shall provide to the Marina or Sportfishing Landing a passenger manifest form containing each crew member and passenger's name, address and telephone number, and the gross charter income for that charter. The District shall provide District approved serially numbered passenger manifest forms to be submitted by each Six-Pac charter vessel operation to its respective Marina or Sportfishing Landing.
   b) Each Six Pac charter vessel shall maintain on board, and subject to inspection at any time by Harbor Police, a monthly summary log containing the date of each charter and the gross charter income received. The District shall provide
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District-approved monthly summary logs for use by the charter vessel operation.

c) Each permitted Six Pac charter vessel shall have a United States Coast Guard licensed Captain aboard at all times during the charter.

d) Failure to comply with any portion of Subsections a) through c), above, shall subject the Six Pac charter vessel operation to the suspension or revocation of its Charter Permit, as well as any of the penalties enumerated in Section (f), below.

3. Six Pac Charter Vessels Payment Requirements

a) The owner(s) or agent(s) of any Six Pac charter operation shall pay to the Marina or Sportfishing Landing Seven Percent (7%) of the gross charter income accruing to any person or entity from the charter operations of each vessel.

b) The owner(s) or agent(s) of each Six Pac charter vessel shall provide to the Marina or Sportfishing Landing a detailed report of all gross charter income received for the preceding month in a form prescribed by the District. The Seven Percent (7%) payment of the gross charter income shall be due and payable to the Marina or Sportfishing Landing on or before the Fifteenth (15th) day of the month subsequent to
the month the revenue was generated. If the Fifteenth (15th) of the month falls on a Saturday or Sunday, the payment shall be due on the immediate Monday thereafter.

c) An agency fee shall be paid to each Marina or Sportfishing Landing in the sum of Three Percent (3%) of the Seven Percent (7%) or 3/7th gross charter income received by each Marina or Sportfishing Landing. This amount is intended to compensate the Marina or Sportfishing Landing for the cost of regulating the Six Pac charter vessels doing business from their leaseholds. The Three Percent (3%) agency fee is exclusive of any other charge or fee which may be collected by the Marina or Sportfishing Landing for services provided to any Six Pac charter vessel operation.

4. Revenue Payment Collection

a) Each Marina or Sportfishing Landing shall pay to the District as revenue Four Percent (4%) of the gross charter income derived from each Six Pac charter vessel operation.

b) Gross charter income payments shall be made payable to the San Diego Unified Port District and shall be mailed to the Office of the Treasurer, P.O. Box 120488, San Diego, California 92112-0488. Payments may also be delivered in
person or sent via overnight courier to the Office of the Treasurer, 3165 Pacific Highway, San Diego, California 92101. Payments by wire transfer are not authorized.

c) Bad debt loss may be deducted from gross charter payments as follows:

1) Any Marina or Sportfishing Landing claiming a bad debt may request that the District offset such portion of gross charter income attributable to the bad debt. The request shall be made in writing to the District. The request shall include a declaration under penalty of perjury detailing the amount of bad debt loss; any and all efforts made to recover or collect on the bad debt; and an agreement that should any portion of the bad debt be recovered at a later date that the Marina or Sportfishing Landing shall pay the gross charter income payment on any amount subsequently obtained by the Marina or Sportfishing Landing.

2) The Office of the Treasurer shall keep the declaration on file should any portion of the bad debt loss be recovered.
3) Late payments: There is no grace period for late payments.

4) Late: A payment is considered late if the payment is not received on or before the date it is due.

5) Provision for late payment: A late fee will be assessed for a payment that is received after the date that it is due. The late fee will be the greater of: i) Twenty Five Dollars ($25.00); or, ii) 0.0277% (10% annualized) charged daily on the unpaid account.

5) Failure to comply with any portion of Subsections a), b), or c), above, may subject the Marina or Sportfishing Landing to any of the penalties enumerated in Section (f), below.

5. Marina and Sportfishing Landing Record-Keeping Requirements

a) Each Marina and Sportfishing Landing shall conform to all rules, regulations, and policies prescribed by the District, any Ordinances of the City in which the Marina or Sportfishing Landing is located, and any laws of the State of California or the Federal Government, as any of the same now exist or may hereinafter be adopted or amended.
b) Each Marina and Sportfishing Landing shall post or display a copy of this Section 4.37 in a prominent place on the Marina or Sportfishing Landing property in a manner reasonably calculated to provide notice to Six Pac charter vessel owners, agents, or operators of the contents of this Section 4.37.

c) The Marina or Sportfishing Landing shall maintain for inspection by Harbor Police a file for each permitted vessel which contains copies of certificates of compliance for insurance, any and all permits and licenses required for the operation of the vessel, and any and all permits and licenses required for crew members to operate said vessel.

(c) Appeal Procedure for District Refusal to Issue Charter

1. Should the District, by or through a Marina or Sportfishing Landing acting as its agent, refuse to issue a Charter Permit to Applicant, and Applicant believes he/she/it has satisfied all the requirements necessary for issuance of the Charter Permit as set forth in Subsections (b) 1 b) and (b) 1 c), above, he/ she/it may appeal such refusal, in writing, to the Executive Director within ten (10) calendar days of receipt of such refusal by Applicant.
2. The Executive Director shall have ten (10) calendar days to respond in writing to Applicant detailing the reasons for the decision. The decision of the Executive Director is final.

(d) Suspension or Revocation of Charter Permit

1. The Executive Director shall have the right to suspend or revoke a Charter Permit for failure to comply with any provision of this Section. Prior to the suspension or revocation of any Charter Permit, the Permittee shall be given ten (10) calendar days written notice of the proposed suspension or revocation ("Notice of Intent to Suspend/Revoke Charter Permit") which shall include the reasons therefor.

2. Any suspension or revocation imposed shall become effective on the day after the ten (10) day appeal period has expired if no timely appeal is filed.

3. If Permittee files a timely appeal, any suspension or revocation of the Charter Permit shall be stayed pending final determination of the appeal.

(e) Appeal Procedure for Charter Permit Suspension or Revocation

1. The Notice of Intent to Suspend or Revoke Charter Permit shall notify Permittee that he/she/it may file a written appeal with the Executive Director which shall be delivered or mailed to the District
Clerk. Permittee shall have ten (10) calendar days from the date of receipt of the Notice of Intent to file the appeal.

2. The Executive Director shall assign a Hearing Officer to hear the appeal. The matter shall be heard no later than fifteen (15) calendar days from the date of the filing of the appeal unless such time is extended by mutual agreement of the parties. The Hearing Officer shall notify the parties, in writing of the time, date and place of the hearing. The notice of hearing may be sent to Appellant by registered or certified mail, or by personal delivery.

3. The hearing shall be an informal administrative proceeding with relaxed rules of evidence. The parties may be represented by legal counsel and witnesses may be produced and examined.

4. The decision of the Hearing Officer shall be final. The decision of the Hearing Officer specifying his or her findings shall be furnished to the parties within fifteen (15) calendar days after the hearing is concluded. For purposes of administrative mandamus, the decision shall be final when it is filed with the District Clerk.

5. The Hearing Officer's decision shall be subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.
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(f) Penalties

In addition to any of the penalties enumerated in this Section, any violation of this Section may also be punished in accordance with Article 0, Section 0.11 (Violations – Misdemeanors and Infractions), and Article 0, Section 0.13 (Assessment of Civil Penalties).

(g) Conflict

To the extent that any provision of this Section 4.37 conflicts with or is inconsistent with the provisions of Board of Port Commissioners Policy No. 380, Sportfishing, the provision(s) of this Section 4.37 shall supersede said Policy provisions.

(h) Invalidity

If any section, subsection, sentence, clause, phrase or portion of this Section 4.37 is held 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.

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

(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.

8. "Cruiser" Vessel – A cruiser vessel is a visiting vessel, not from the County of San Diego, traveling between ports on a voyage.


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 Permit from the District to anchor in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage.

12. “Propulsion System” – A system which is designed to propel a vessel through the water through the use of sail or 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.

14. “Sewage” – Human body waste, either treated or untreated.

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

16. “Waste” – Sewage and all other waste or substances associated with human habitation; or of human or animal waste.

(c) Anchoring 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 without first having secured an Anchoring Permit from the District in the form and manner provided therefor.

2. No Person, including the owner, master, operator, caretaker, or person in possession of a vessel, shall allow the vessel to remain anchored after an Anchoring Permit has expired.

3. 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.
4. Any vessel anchoring in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage must have a propulsion system and operate under its own power.

5. Any vessel anchoring in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage must have petroleum free bilges.

6. Any vessel anchoring in the A-1 Anchorage, the A-5 Anchorage, or the A-9 Anchorage must be seaworthy.

7. 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-9 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 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.

(d) Anchoring Purposes Only

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

(e) Refusal to Issue Anchoring Permit

The District shall have the right at all times to refuse to issue or reissue an Anchoring 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 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.

(f) Revocation of Anchoring Permit

The District shall have the right at all times to revoke an Anchoring 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 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) Vessel Inspections

As a condition to receiving or maintaining any Anchoring Permit, the District may inspect any vessel anchored, moored or requesting anchorage in the A-1, A-5 or A-9 Anchorages for proper sanitary, mechanical or other devices or equipment as may be prescribed by law.

(h) Permit Limitations

1. A-1 Anchorage – The A-1 Anchorage is a Seventy Two (72) hour anchorage open for weekend anchorage only. A-1 Anchoring Permits 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 Chief of Harbor Police.
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 Seventy Two (72) hour anchorage. A-5 Anchoring Permits shall be issued for a Seventy Two (72) hour period, 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 Three (3) Seventy Two (72) hour Anchoring Permits may be issued to any person or vessel in any Thirty (30) day period. The Three (3) Anchoring Permits may be issued for the A-1 or A-5 Anchorage, or both, but are cumulative.
   a) No Two (2) Seventy Two (72) hour Anchoring Permits shall be issued on consecutive calendar days for the same Anchorage.

4. A-9 Anchorage – The A-9 Anchorage is designated for use by "Cruiser" Vessels as defined in Section (b)8, 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.

(i) Prohibited Uses

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

1. Business or commercial enterprise is prohibited.

2. Commercial vessels and/or vessels for hire are prohibited from anchoring.

3. Barges and floating docks are prohibited.

4. Vessels more than Sixty Five (65) feet in length are prohibited from anchoring unless and until a special conditional use permit is obtained.

5. An Anchoring Permit may be revoked for violation of any Federal, State, or local statute or ordinance.

6. Any vessel anchored 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.
7. Any person who violates any provision of this Section is guilty of a misdemeanor.

(j) Applicant’s or Permittee’s Right of Appeal

1. If the District refuses to issue an Anchoring Permit, as described in Section (e), above, and Applicant for such Anchoring Permit believes he/she satisfies all conditions for the issuance of an Anchoring 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 Anchoring Permit.

2. If the District revokes an Anchoring Permit as described in Section (f), 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 believes the revocation of the Anchoring Permit to be improper.

3. The Executive Director or his 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 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)
(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
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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 8

POLICE 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. 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.

6. Persons actually engaged in the construction, inspection, repair or maintenance of vessels and marine facilities provided that:

   (i) Such persons apply for and receive written permission from the Executive Director to conduct such activities; and

   (ii) That there shall be an assistant present who shall be on the surface of the water close over the person engaged in
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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)
(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, ordered 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 curbline 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. 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.
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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(e) 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.

(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) 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.

(e) 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.

(f) 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)
Section No. 8.02

(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)
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.


(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)
(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. "Chula Vista Bayside Park" – the 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.

3. "Coronado Landing Park" – the 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.

4. "Coronado Tidelands Park" – the park located in the City of Coronado, bordered by the sidewalk on Glorietta Boulevard, Mullinix Drive southerly to the waterline, and a fence line.

5. "Designated Area" or "Designated Areas" – the fourteen (14) 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.

6. "Donation" – a gift; a voluntary act which is not required and does not require anything in return.

7. "Embarcadero Marina Park North" – the 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.

8. "Embarcadero Marina Park South" – the 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.

9. "Food" or "Food Products" – any type of edible substance or beverage.
10. "Goods" or "Merchandise" – any items that are not a food product.

11. "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.

12. "North Embarcadero Promenade" (Promenade) – the 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 northern edge of Laurel Street to the northern edge of Seaport Village located at 849 West Harbor Drive, San Diego.

13. "Perform," "Performs," "Performing," "Performance" or "Performances" – to present or engage in any of the following activities on public property for the purpose of providing
entertainment to the public: playing musical instruments, applying henna tattoos, face painting, creating "balloon" art, fortune telling, tarot card reading, singing, dancing, acting, pantomimining, puppeteering, juggling, reciting, engaging in magic, creating Visual Art in its entirety, or similar artistic endeavors, or other constitutionally protected entertainment. "Perform," "Performs," "Performing," "Performance," or "Performances" 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 exclusions is not intended to be exhaustive.


15. "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.
16. "Sculpture" – a three dimensional work of art which 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.

17. "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.

18. "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 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.

19. "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 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.

20. "Vendor" – a Person who vends. This includes a vendor who is an employee or agent of another.

21. "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 (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 riders, pedicabs, cruise ship passengers and visitors to the Broadway Pier, Star of India, Maritime Museum, harbor tour vessels, U.S.S. Midway, restaurants, parks, and other
sites. 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 convenient access to it. Unregulated Vending adversely affects ingress and egress along the promenade impairing public safety and negatively impacting businesses and attractions along the Promenade. Therefore, the North Embarcadero Promenade requires reasonable time, place and manner restrictions to preserve its status as a tourist attraction and recreational area, protect the commercial life of the Promenade and ensure the safety and enjoyment of residents, visitors, artists, Vendors, and Performers alike. Due to its limited size, its proximity to the Bay and its physical characteristics, the North Embarcadero Promenade thus requires specific regulations separate and apart from those applicable to other parks and Tidelands areas.

2. Unregulated Vending harms the Promenade and must be regulated because the narrow confines of the promenade cannot accommodate tables, displays, chairs, umbrellas and other
equipment used for unregulated Vending along ingress and egress from local businesses and attractions. Understanding that Performers are engaged in constitutionally protected activities, this Section seeks to impose reasonable time, place and manner restrictions on Performers to the minimal extent necessary to ensure their safety, the safety of their audience and the public, and to prevent unreasonable interference with visitors to the Tidelands and their use and enjoyment of same, and the ability of local businesses and attractions to operate.

5. Embarcadero Marina Park North and Embarcadero Marina Park South are designated as District parks and are sites often used for recreation and events that require park permits, pre-planning and notice. 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. Situated directly on San Diego Bay, these parks offer some of the best views of San Diego Bay as well as Coronado and are popular picnic areas. They are also adjacent to Seaport Village, a retail shopping center. Tourists are deterred from visiting or shopping at Seaport Village because of the presence of unregulated Vendors. Regulation is therefore necessary to manage the time, place and manner of
Vending in Embarcadero Marina Park North and Embarcadero Marina Park South.

6. Tuna Harbor Park is designated a District park and is adjacent to the Midway Museum. This park is a popular gathering place for visitors and residents to be able to walk around and 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, impedes views of the bay and of the USS Midway Museum and threatens the District's ability to attract tourists and preserve businesses bordering the park and Seaport Village to the south of Tuna Harbor Park. Regulating Vendors is necessary to manage the number of Vendors, the size of their equipment and displays, and the location of Vending activity.

7. Coronado Tidelands Park is a designated District park and is adjacent or near to the Coronado Ferry Landing, numerous residences, and provides unimpeded access and views of San Diego Bay, especially north to downtown San Diego. Coronado Tidelands Park also provides baseball and softball 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 by nearby businesses. Unregulated vending in this park impedes views of the bay and the ingress and egress of visitors to the park.

8. 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. This area includes a shoreline park, promenade and retail shopping and is a popular destination for visitors to Coronado, offering unobstructed views of downtown San Diego and San Diego Bay. This area is frequently used for recreational activities such as walking, running, and bicycling. Regulating vending in this area is necessary to ensure appropriate visitor and recreational-user ingress and egress and to protect the commercial life of nearby businesses on Tidelands and in the City of Coronado especially along Orange Avenue and First Street.

9. Chula Vista Bayside Park is a designated District park adjacent to the Chula Vista Harbor, a fishing pier and a recreational vehicle (RV) park. The park is frequently used for picnics and other recreation purposes including running, walking, bicycle riding, and fishing. The park provides unobstructed views of San Diego Bay,
looking west to the Coronado Strand and the ocean. Unregulated vending in this park would impede ingress and egress of park users and would unfairly compete with District-permitted vendors in the area and therefore should be regulated.

10. 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 Performers and Vendors for potentially extended periods of time. As such, areas under construction shall prohibit any outside activity for public safety reasons. The NEVP project is expected to take approximately 18 to 24 months, with construction occurring through at least 2013. As the various phases of the NEVP are completed, the District shall continue to reasonably accommodate Performers and Vendors pursuant to the provisions of this Section and applicable law.

(c) Vending on Tidelands Prohibited

Except as specifically allowed in this Section, no Person shall engage in Vending upon any public Tidelands without a permit issued by the District.
(d) Vending in Designated Areas

To address the findings and purposes set forth in this Section, the District has created reasonable time, place, and manner restrictions on Vending. To preserve the use of the North Embarcadero Promenade, Embarcadero Marina Park North, Embarcadero Marina Park South, Tuna Harbor Park, Ruocco Park and future District parks for expressive activities, the District has divided available space into fourteen (14) areas, known as Designated Areas, where:

1. Persons can engage in traditional expressive speech and petitioning activities, can Perform, and can Vend the following expressive items: newspapers, leaflets, pamphlets, bumper stickers, and/or buttons.

2. Persons can Vend the following items, which have been created, written, composed, or performed by the Vendor:
   a) books, audio, video, compact discs, video discs or other recordings of their Performances; items;
   b) paintings painted and signed by the Person Vending the items;
   c) photographs taken and signed by the Person vending the items;
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d) prints made and signed of paintings or photographs painted or made by the Person Vending the items;  
e) sculptures made and signed by the Person vending the items;  
or,  
f) any other item that is inherently communicative and has nominal value or purpose apart from its communication.

For purposes of this Sub-section, expressive items shall be deemed to have been created by the Vendor only if they have been predominantly authored, performed, recorded, filmed, or otherwise made or assembled by the Vendor.

3. Although an item may have some expressive purpose, it will be deemed to have more than nominal or functional utility or purpose apart from its message if it has a common and dominant non-expressive purpose or use. Examples of items that have more than nominal utility, use or purpose apart from their message and thus are subject to the Vending ban under the provisions of this Section include but are not limited to the following: Food, including water, Food products, house wares including dishes or eating utensils, appliances, books not written by the Vendor (subject to the exception set forth in Subsection 4 below), magazines, clothing.
(subject to the exception set forth in Subsection 4 below),
sunglasses, cosmetics, beauty supplies, oils, lotions, incense,
perfumes, crystals, Handcrafts, jewelry, hats, visors, souvenirs,
candles, toys, and stuffed animals.

4. Persons seeking to engage in the sale of commercial merchandise
may do so only if the merchandise meets all of the following criteria:

a) The purpose and activity of the Person Vending the
merchandise and the nature or content of the merchandise to
be sold must be inextricably intertwined. That is, the
merchandise must carry or convey a political, religious,
philosophical or ideological message which is permanent,
readable or recognizable from a reasonable distance and
which is informative of the purpose of the Person.
Expressions, such as the words "San Diego" which are not
intertwined with the Person's non-profit organization's
message are not protected speech. Pictures of maps of San
Diego or locales such as the Gaslamp, and tie-dyed designs
without a message as described herein are not protected
speech for purposes of this Section.
b) The message carried or conveyed on the merchandise must be physically part of the merchandise, indelible and not printed on a removable sticker or tag.

c) The message must be readable in the context of the size of the lettering, the color scheme, the location of the message and the graphics involved and may not be camouflaged, innocuous, not contrasting, unreasonably small or placed in an unreadable place on the merchandise when the merchandise is used for its intended purpose. For example, a message on the back of a T-shirt covered up by tie-dying or other design would not comply with the terms of this Subsection.

d) The mere placement of the Person's non-profit organization's name, which is unrelated to messages which are not informative of the purpose or activity of the Person's non-profit organization, shall not qualify the merchandise as inextricably intertwined with the purpose and activity of the Person or his or her non-profit organization.

(e) Allocation and Use of Designated Areas

The District shall create areas containing spaces for performing and expressive activity on Tidelands which will be referred to as "Designated
Areas" and "Allotted Spaces," respectively. The Allotted Spaces contained in the Designated Areas will be available on a first-come, first-served basis and their respective sizes and dimensions are set forth on a map attached to this ordinance and also available for inspection and copying at the Office of the District Clerk.

The Allotted Spaces shall be made available for the activities described in subsection (d) above. Persons using the Allotted Spaces are subject to, and shall comply with all following regulations:

1. No Person shall Vend any item in an Allotted Space, except as expressly authorized by subsection (d).

2. Any Person may select only one Allotted Space in each Designated Area.

3. In no event shall the number of Persons occupying a Designated Area exceed the number of Allotted Spaces allowed in that Designated Area, regardless of size.

4. 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 the Allotted Spaces.
5. There shall be a buffer zone of at least two (2) feet between each Allotted Space to provide adequate room for any Person to Perform, Vend, or otherwise engage in expressive activity.

6. No Person shall Perform in, or Vend in, or place or allow any item to extend into a designated emergency ingress or egress area.

7. No Person shall place or allow any item, except an umbrella with a stand, a sun shade, one easel or display board exceeding four (4) 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 sun shade shall not exceed eight (8) feet above the ground. Any Person may use one easel or display board which shall not exceed sixty-eight (68) inches in height.

8. No Person shall purchase, sell, barter, or exchange any Allotted Space with another Person or reserve or "hold" an Allotted Space for another Person.

9. No Person shall set up or set down items in, take down items from or block, or attempt to reserve an Allotted Space between sunset and sunrise.

10. 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.

11. Allotted Spaces must be kept clean and litter, debris, and any marking must be removed from the Allotted Space by sunset on the day the Person uses the Allotted Space or when the Person vacates the Allotted Space, whichever is earlier.

12. 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.

13. Allotted Spaces 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.

14. Each vendor in an Allotted Space shall be limited to one (1) sign no larger than two (2) square feet.

15. During special events authorized by the District, some or all Allotted Spaces and/or Designated Areas may be unavailable before, during and after the event to allow for set up and clean-up of the area by the event organizer. Alternate areas will be designated
nearby when possible. If no areas are available nearby the designated area of the special event, one of the other Designated Areas can be used.

16. Noise regulations of the District member City in which Vending or Performing occurs shall be complied with by any Vendor or Performer.

(f) Request for Other Designated Areas

If any Person seeks to conduct activities set forth in this Section in a Designated Area in an area not described in Section (e), above, said Person shall submit a request to the Executive Director identifying the site and dates proposed for said activity. Said request shall be submitted at least ten (10) calendar days prior to the date of the proposed activity. The Executive Director or his or her designee shall respond to the request within four (4) business days of the submittal of the request. If the Executive Director denies the request, the Person may seek judicial relief.

(g) Use of District Property for Vending, Performing, or Display 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 Vending, Performing, or display or anything whatsoever.
(h) Exemptions

The provisions of this ordinance shall not apply to:

1. Any Vendor or Person operating pursuant to or under the authority an approved District business or other permit.

2. Any approved participant in any special event authorized by the District.

(i) Penalties

Any violation of this Section shall be punishable in accordance with Section 0.11 of this Code (General Penalties).

(j) Severability

If any subsection, sentence or clause, phrase 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)
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 PEDICABS

(a) Definitions

1. “Bicycle” — any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears, and which has wheels at least Sixteen (16) inches in diameter and a frame size of at least Thirteen (13) inches.

2. “Decal” — Pedicab Permit Decal purchased from the District for each Pedicab operated by an Operator.


5. “Executive Director” — Executive Director of the San Diego Unified Port District.

6. “Identification Badge” — a badge that includes a color passport-sized photo and issued by the City of San Diego pursuant to San Diego Municipal Code Section 83.0110.

7. “Operate” — to conduct business with a Pedicab within the District.

8. “Operator” — any individual who operates a Pedicab within the District, including but not limited to (a) owners; (b) employees; and, (c) individual contractors.
9. “Pedicab” means:
   a) A bicycle that has Three (3) or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and which is used for transporting passengers for hire; or
   b) A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting passengers on seats attached to the trailer, sidecar, or similar device, that is operated by an individual, and that is used for transporting passengers for hire.

10. Pedicab Stand means a stand erected to allow a specified number of Pedicabs at any one time to stop and respond to requests for service.

(b) Operating Requirements

1. Decal Required:
   a) It is unlawful for any Pedicab to operate within the District without a Decal affixed to it and issued by the District pursuant to a Pedicab Permit issued by the District.
   b) The District shall deny issuance of a Decal if the Executive Director or his or her designee determines that the Pedicab
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does not meet the requirements of this division and/or the California Vehicle Code provisions applicable to Bicycles.

2. District Pedicab Permit Required: It shall be unlawful for any individual to operate a Pedicab within the District without first having obtained a Pedicab Permit from the District.

3. City of San Diego Operating Permit Required: It shall be unlawful for any individual to operate a Pedicab within the District without first having obtained a Pedicab Operating Permit from the City of San Diego, pursuant to San Diego Municipal Code Sections 83.0104 through 83.0107.

4. Identification Badge Required:
   a) While the Pedicab is in operation the Operator shall wear an identification badge at all times, in a manner clearly visible to the public, issued by the City of San Diego pursuant to San Diego Municipal Code Section 83.0110.
   b) It is unlawful for an Operator to fail to wear an identification badge, in a manner clearly visible to the public, while operating a Pedicab.

5. Insurance Required:
   a) It shall be unlawful for any individual to operate a Pedicab within the District unless at the time of such operation the
Operator has in effect a valid policy of Commercial General Liability Insurance as more fully described in subsection b), below.

b) Said policy of insurance shall cover the District and operations in the amount of not less than Two Million Dollars ($2,000,000.00) 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 any Pedicab, pursuant to a Pedicab Permit issued by the District.

c) 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 kept on file with the District during the entire time the Pedicab Permit is in effect.

6. Driver's License Required: It is unlawful for any individual without a motor vehicle driver's license valid in California and in his or her immediate possession to operate any Pedicab within the District.

7. Minimum Age for Operator: It is unlawful for any individual under the age of Eighteen (18) to operate a Pedicab within the District.
8. Compliance with All Laws: Operators are subject to all applicable laws, rules and regulations of the San Diego Unified Port District Code, the San Diego Municipal Code, and the California Vehicle Code pertaining to the operation of Bicycles upon streets, except those provisions that by their very nature can have no application.

9. Stopping Prohibited: It shall be unlawful for any Operator, during operation of the Pedicab, to stop anywhere within the District for the purpose of soliciting a request for service, except at a designated Pedicab Stand.

(c) Aggressive Solicitation

1. Definitions:
   
a) “Aggressively” – behaving in a hostile or intimidating manner.

b) “Coerce” – to force or bring about by force or threat.

c) “Harass” – to irritate or torment persistently.

d) “Hound” – to pursue relentlessly and tenaciously.

e) “Intentionally Block” – to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact.

f) “Intimidate” – to frighten into submission or obedience.
“Solicitor” – as used in this Section, an Operator who asks for money or to provide services for costs.

“Threaten” – to express an intention to inflict evil, injury or damage.

2). Acts Prohibited:

a) It is unlawful for any Operator while operating a Pedicab within the District to aggressively coerce, threaten, hound, harass, or intimidate another person for the purpose of soliciting money or services.

b) For purposes of this Section, an Operator "aggressively coerces, threatens, hounds, harasses or intimidates another person" when: i) the Operator's conduct would cause a reasonable person in the position of the solicitee to fear for his or her safety; or ii) the Operator intentionally blocks the path of the solicitee; or iii) the Operator persists in following the solicitee closely, and continues to demand money or solicit Pedicab services after the solicitee has rejected the Operator's solicitation by words or conduct.
3. Reasonable Fear for Safety:

For purposes of this Section the following facts, among others, are relevant in deciding whether a reasonable person would have cause to fear for his or her safety:

a) the solicitor's making physical contact with the solicitee; or
b) the proximity of the solicitor to the solicitee; or
c) the duration of the solicitation; or
d) the solicitor's making threatening gestures or other threatening conduct, including closely following the solicitee.

4. Demand for Services:

This Section is not intended to proscribe any demand for payment for services rendered or goods delivered.

5. Free Speech:

This Section is not intended to restrict the exercise of protected free speech.

(d) Appeal Procedure for District Refusal to Issue Pedicab Permit/Decal

1. Should District refuse to issue a Pedicab Permit or Decal to any Operator, and Operator believes he/she/it has satisfied all the requirements necessary for issuance of the Pedicab Permit or Decal as set forth in the District's Pedicab Permit, he/she/it may
appeal such refusal in writing to the Executive Director or his or her
designee within Ten (10) calendar days of receipt of such refusal by
Applicant.

2. The Executive Director or his or her designee shall have Ten (10)
calendar days to respond in writing to Operator detailing the reasons
for the decision. The decision of the Executive Director or his or her
designee is final.

(e) Suspension or Revocation of Pedicab Permit/Decal

1. The Executive Director or his or her designee shall have the right to
suspend or revoke a Pedicab Permit or Decal for failure to comply
with any provision of this Section. Prior to the suspension or
revocation of any Pedicab Permit or Decal, Operator shall be given
Ten (10) calendar days written notice of the proposed suspension or
revocation ("Notice of Intent to Suspend/Revoke Pedicab
Permit/Decal") which shall include the reasons therefor.

2. Any suspension or revocation imposed shall become effective on the
day after the Ten (10) day appeal period has expired if no timely
appeal is filed.

3. If Operator files a timely appeal, any suspension or revocation of the
Pedicab Permit or Decal shall be stayed pending final determination
of the appeal.
Appeal Procedure for Pedicab Permit/Decal Suspension or Revocation

1. The Notice of Intent to Suspend or Revoke Pedicab Permit/Decal shall notify Operator that he/she/it may file a written appeal with the Executive Director which shall be delivered or mailed to the District Clerk. Operator shall have Ten (10) calendar days from the date of receipt of the Notice of Intent to file the appeal.

2. The Executive Director or his or her designee shall assign a Hearing Officer to hear the appeal. The matter shall be heard no later than Fifteen (15) calendar days from the date of the filing of the appeal unless such time is extended by mutual agreement of the parties. The Hearing Officer shall notify the parties in writing of the time, date and place of the hearing. The notice of hearing may be sent to Appellant by registered or certified mail, or by personal delivery.

3. The hearing shall be an informal administrative proceeding with relaxed rules of evidence. The parties may be represented by legal counsel and witnesses may be produced and examined.

4. The decision of the Hearing Officer shall be final. The decision of the Hearing Officer specifying his or her findings
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shall be furnished to the parties within Fifteen (15) calendar days after the hearing is concluded. For purposes of administrative mandamus, the decision shall be final when it is filed with the District Clerk.

5. The Hearing Officer’s decision shall be subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(g) Penalties

In addition to any of the administrative penalties set forth in this Section, violations of this Section may also be punished in accordance with Article 0, Section 0.11 of this Code.

(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 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)
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.
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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 — PARKING OF VEHICLES, OVERSIZE VEHICLES AND TRAILERS UPON SHELTER ISLAND DRIVE, FROM THE 1400 BLOCK THEREOF TO ANCHORAGE LANE AND IN SHORELINE PARK

(a) Purpose

California Vehicle Code Section 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, on certain highways or portions thereof, during certain hours of the day. Further, the San Diego Unified Port District Code authorizes the designation of parking spaces on tidelands, including Shelter Island. The purpose of this Section of the San Diego Unified Port District Code is to regulate the parking of vehicles, oversize vehicles, trailers, and vehicles with boat trailers upon Shelter Island Drive, from the 1400 Block thereof to Anchorage Lane, and designate and regulate parking spaces for oversize vehicles in Shoreline Park.

(b) Definitions

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

1. “Boat Trailer” – trailer used to convey a boat which attaches to a vehicle for transport.

2. “Bus” – a vehicle, including a trailer bus, designed, used, or maintained for carrying more than Fifteen (15) persons, which is not
used for commercial purposes but for personal or recreational purposes only.

3. “Camping Trailer” – a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation and or recreational or emergency occupancy.

4. “Fifth-Wheel Travel Trailer” – a vehicle designed for recreational purposes to carry persons or property on its own structure and so constructed as to be drawn by a motor vehicle by means of a kingpin connecting device.

5. “House Car” – a motor vehicle originally designed, or permanently altered, and equipped for human habitation, or to which a camper has been permanently attached or equipped with a camper having an axle that is designed to support a portion of the weight of the camper unit regardless of the method of attachment of the camper unit.

6. “Motor Home” – a vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation and/or recreational or emergency occupancy.
7. “Oversize Vehicle” – a Bus, Camping Trailer, Fifth Wheel Travel Trailer, House Car, Motor Home, Recreational Vehicle, Slide-in trailer, and/or Trailer Bus, and/or Vehicle greater than Twenty (20) feet in length.

8. “Recreational Vehicle” – a Camp Trailer, Fifth Wheel Trailer, Motor Home, Slide-in Camper, Trailer Bus, Trailer, with or without motive power, designed for human habitation and/or recreational or emergency occupancy.

9. “Shoreline Park” – a Public Park of the District pursuant to San Diego Unified Port District Code Section 8.02(a) 1. and is located on Shelter Island in the City of San Diego, the public area bayward of Shelter Island Drive to the waterline, including all parking lots, bordered on the 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.

10. “Slide-in Trailer” – a portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation and/or recreational or emergency occupancy and shall include a truck camper.
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11. “Trailer” – a vehicle designed for carrying persons or property on its own structure and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon any other vehicle.

12. “Trailer Bus” – a non-commercial trailer or semitrailer designed, used, or maintained for the transportation of more than Fifteen (15) persons, including the driver, and includes a connected towing motor vehicle that is a motor truck, truck tractor, or bus.

13. “Vehicle” – a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

(c) Shelter Island Drive, from the 1400 Block Thereof to Anchorage Lane.

Parking Prohibited between the hours of 3:00 AM and 4:30 AM

1. No person shall park or stand or permit to stand any Vehicle, Oversize Vehicle, Boat Trailer or Trailer for any purpose upon Shelter Island Drive, from the 1400 block thereof, to Anchorage Lane under the jurisdiction of the San Diego Unified Port District between the hours of 3:00 AM and 4:30 AM.

2. Parking of a Vehicle, Oversize Vehicle, Boat Trailer or Trailer is permissible when being actively utilized for a public construction or maintenance project, or other private project, including special
events, provided such equipment is properly marked with approved reflectorized barricades and is parked immediately adjoining or abutting the permitted property or special event.

3. This Section shall not apply to a commercial truck (as established by a current registration with the State Department of Motor Vehicles):
   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 Shelter Island Drive where such Vehicle or Oversize Vehicle is parked for a period reasonably necessary to complete such service.

(d) Regulation of Vehicles. Oversize Vehicles, and Vehicles with Boat Trailers on Shelter Island Drive, from the 1400 Block Thereof to Anchorage Lane and in Shoreline Park

1. Any Vehicle (including a Vehicle with a Trailer) or Oversize Vehicle over Thirty (30) feet in length is prohibited from entering, standing, stopping, or parking in Shoreline Park, excepting a Vehicle or Oversize Vehicle standing, stopped or parked in connection with,
and in the aid of, the performance of a service to or on a property on Shelter Island Drive where such Vehicle or Oversize Vehicle is parked for a period reasonably necessary to complete such service.

2. The Executive Director or his or her designee shall designate parking spaces in Shoreline Park and on Shelter Island Drive, including a limited number of Oversize Vehicle and Vehicle with Boat Trailer parking spaces, by signs, pavement stripes or other means of designation.

3. No Vehicle, Oversize Vehicle, or Vehicle with Boat Trailer shall be stopped, left standing or parked on Shelter Island Drive between the 1400 Block thereof and Anchorage Lane or in Shoreline Park, other than within a single space designated for that size of the Vehicle, Oversize Vehicle, or Vehicle with Boat Trailer.

4. No Vehicle, Oversize Vehicle, or Vehicle with Boat Trailer shall be stopped, left standing or parked on Shelter Island Drive between the 1400 Block thereof and Anchorage Lane or in Shoreline Park, outside of a marked stall.

5. No Oversize Vehicle shall be stopped, left standing or parked in Shoreline Park between the hours of 10:30 PM and 6:00 AM with the exception of an Oversize Vehicle when such vehicle is parked
in connection with and in the aid of the performance of a service to a property located on Shelter Island Drive.

6. No Vehicle, Oversize Vehicle, or Vehicle with Boat Trailer shall be stopped, left standing or parked on Shelter Island Drive between the 1400 Block thereof and Anchorage Lane or in Shoreline Park at angles, horizontally, diagonally or otherwise across the lines marking a space designated for parking a Vehicle, Oversize Vehicle or Vehicle with Boat Trailer.

7. No Vehicle that is less than Twenty (20) feet in length shall be stopped, left standing or parked in any Waterfront Parking Lot, within a space designated for an Oversize Vehicle or Vehicle with Boat Trailer.

8. No Oversize Vehicle or Vehicle with Boat Trailer shall be stopped, left standing or parked on Shelter Island Drive, between the 1400 Block thereof and Anchorage Lane, or in Shoreline Park, within a space designated for passenger vehicles of ordinary length (less than Twenty [20] feet).

9. No person shall occupy, fill or obstruct a space designated for parking in any Waterfront Parking Lot with any chair, carpet, mat, appliance, beach gear, equipment or other personal property other
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than a vehicle appropriate for the size of the parking stall, except by special permit of the Executive Director or his or her designee.

10. This Section does not apply to Vehicles with Boat Trailers as long as said Vehicles are parked in spaces designated as such.

11. The Executive Director or his or her designee may promulgate and implement administrative regulations pertaining to the administration of Oversize Vehicle parking spaces.

12. 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)
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)
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(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, 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.

(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)
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)
(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:
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<td>$130</td>
<td>$140</td>
</tr>
</tbody>
</table>

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.
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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.

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).

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:

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

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

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Existing Rates</th>
<th>Proposed Rate Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transient, Up to 1 Hour</td>
<td>$6.00 to $8.00</td>
<td>$6.00 to $15.00</td>
</tr>
<tr>
<td>Transient Over 1 Hour</td>
<td>$12.00 to $16.00 (1 to 12 Hours)</td>
<td>$10.00 to $25.00 (1 to 7 Hours)</td>
</tr>
<tr>
<td>Transient, Daily Max Rate</td>
<td>$18.00 to $24.00 (13 to 20 Hours)</td>
<td>$12.00 to $40.00 (7 to 20 Hours)</td>
</tr>
<tr>
<td>Special Events</td>
<td>$20</td>
<td>$20.00 to $40.00</td>
</tr>
<tr>
<td>Valet Parking</td>
<td>$6.00 to $10.00</td>
<td>$10.00 to $15.00</td>
</tr>
<tr>
<td>Bus/RV/Oversized Vehicles</td>
<td>$20.00 for up to 4 Hours</td>
<td>$20.00 for up to 4 Hours</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Existing Rates</th>
<th>Proposed Rate Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention Center Event Rate</td>
<td>$15.00</td>
<td>$15.00 to $20.00</td>
</tr>
</tbody>
</table>
### San Diego Unified Port District – Port Code

**Section No. 8.21**

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Existing Rates</th>
<th>Proposed Rate Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Event Rate (Non Convention Center Events)</td>
<td>$15.00 to $20.00</td>
<td>$15.00 to $35.00</td>
</tr>
<tr>
<td>Daily Employee Rate</td>
<td>$4.00</td>
<td>$4.00 to $6.00</td>
</tr>
<tr>
<td>Monthly Parking Rate (Convention Center Staff)</td>
<td>$50</td>
<td>$50.00 to $100</td>
</tr>
<tr>
<td>Monthly Parking Rate (non-Convention Center Staff)</td>
<td>N/A</td>
<td>$150 to $200</td>
</tr>
<tr>
<td>SD Bay Park &amp; Shuttle</td>
<td>N/A</td>
<td>$5.00 to $20.00</td>
</tr>
</tbody>
</table>

### Convention Center (Adjacent to Hilton) Public Parking Garage

<table>
<thead>
<tr>
<th>Rate Type</th>
<th>Existing Rates</th>
<th>Proposed Rate Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transient Rate Up To 1 Hour</td>
<td>N/A</td>
<td>$8.00</td>
</tr>
<tr>
<td>Transient Rate 2 to 12 Hours</td>
<td>N/A</td>
<td>$15.00 to $20.00</td>
</tr>
<tr>
<td>Transient Rate 13 Hours to 24 Hours</td>
<td>N/A</td>
<td>$20.00 to $30.00</td>
</tr>
<tr>
<td>Convention Center Event Rate</td>
<td>$15.00</td>
<td>$15.00 to $20.00</td>
</tr>
<tr>
<td>Special Event Rate (Non Convention Center Events)</td>
<td>$20.00 to $25.00</td>
<td>$15.00 to $35.00</td>
</tr>
<tr>
<td>Monthly Parking Rate</td>
<td>$180</td>
<td>$60.00 to $200</td>
</tr>
<tr>
<td>SD Bay Park &amp; Shuttle</td>
<td>N/A</td>
<td>$5.00 to $20.00</td>
</tr>
</tbody>
</table>

(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)
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)
San Diego Unified Port District – Port Code

Section No. 8.25

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)
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Section No. 8.28

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
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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
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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)
(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
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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.

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.
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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)
(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)
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 9

DEBARMENT

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.


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)
(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)
San Diego Unified Port District – Port Code

Section No. 9.08

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 10

STORMWATER 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.


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.

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.


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.


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.
CAS000001, 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.


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.


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, rain water 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.


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.


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:


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.


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.

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,

(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.

(Enacted July 25, 2000 – Ordinance No. 2105)

(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 WASTE WATER 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 10.06 (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
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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
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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 11
REGULATIONS 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 Ck. 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 m 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,
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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)
Article 11 – Definitions

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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)
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, street lights, 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.
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(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)
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, pealing 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)
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 12

REQUIRED 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 publically 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.
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.


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
Section No. 14.05

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
law, including without limitation approvals and permits required under the California Coastal Act, Public Resources Code § 30000, et seq.

(Enacted May 25, 2017 – Ordinance No. 2892)
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.

(j) 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.

(k) 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.

(l) 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.

(m) 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.
(n) 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.

(o) 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)
San Diego Unified Port District – Port Code

Section No. 14.09

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)
### Changes in Port Code (Including Stand Alone Conflict of Interest Code) 1998-2019

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<td>Parking Regulations - Enforcement</td>
<td>Article 8, Amended Section 8.15</td>
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<td>Stormwater Management</td>
<td>Article 10, Amended Section 10.1, 10.02, 10.03, 10.06, 10.08, 10.10</td>
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<td>Regulation of Vessels – Tuna Harbor Basin</td>
<td>Article 4, Amended Section 4.09</td>
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<td>Regulating Building Wrap Signage</td>
<td>Article 8, Added Section 8.32</td>
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<td>Fireworks Display Ordinance</td>
<td>Article 14, Added Sections 14.01-14.09</td>
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<td>Prohibiting the Cultivation of Marijuana on District Tidelands</td>
<td>Article 8, Amended Section 8.04</td>
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<td>Tidelands Public Parking Lot and Garages</td>
<td>Article 8, Amended Section 8.21</td>
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<td>Regulating All Signage On All Navigable Waters, Tidelands And Submerged Lands</td>
<td>Article 8, Added Section 8.30</td>
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<td>Confirming San Diego Unified Port District’s Authority Over Local Laws</td>
<td>Article 8, Added Section 8.31</td>
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<td>Inclusion of Tidelands’ Meters and Paystations</td>
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<td>Authorizing Executive Director to Designate Time-Limit Parking Zones</td>
<td>Article 8, Added Section 8.11(b)</td>
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<td>Fines for Violations of Sections 8.16(d)(e) (f)</td>
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<td>Prohibition of Parking in Disabled Persons Parking Zones; 72-hour Parking Restrictions;</td>
<td>Article 8, Added Sections 8.16(d), (e), (f), (g)</td>
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<td>Required Reporting of Utility Use on Tidelands</td>
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## San Diego Unified Port District – Port Code

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Change in Port Code (1998-2019)  
D2# 864702
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<td>Parking Vehicles, Oversize Vehicles and Trailers Upon Shelter Island Drive</td>
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<td>Article 4, Amended Section 4.38</td>
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<td>Camping and Storage of Personal Property on Tidelands</td>
<td>Article 8, Amended Section 8.18</td>
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<td>Stormwater Management and Discharge Control</td>
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<td>Article 4, Section 4.36</td>
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<td>Amended Appendix A &amp; B and added Appendix C</td>
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<td>Deletion of airport references; changing title of Port Director to Executive Director</td>
<td>Preamble and Article 0, Sections 0.03 and 0.05; deleting Article 5, Sections 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, 5.93 and 5.94; amending Article 8, Sections 8.01, 8.02, 8.03, 8.04, 8.10, 8.11, 8.14, 8.15, 8.16, 8.24, 8.26, 8.27, 8.28, 8.50, 8.60, 8.61, 8.62, 8.68, 8.69, 8.70 and 8.71; and further amending Article 8, by deleting Section 8.72, and amending Article 9, Section 9.03</td>
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## San Diego Unified Port District – Port Code

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<td>South SD Bay Anchoring Mooring, Aqu. Act</td>
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<td>Central SD Bay Anchoring Mooring, Aqu. Act</td>
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