

DRAFT**SAN DIEGO UNIFIED PORT DISTRICT****ORDINANCE xxxx****ORDINANCE AMENDING SAN DIEGO UNIFIED PORT DISTRICT PORT CODE SECTION 4.38 - REGULATING VESSELS IN THE A-1, A-5, AND A-9 ANCHORAGES TO INCLUDE SHELTER ISLAND GUEST DOCK, INSURANCE REQUIREMENTS, AND OTHER AMENDMENTS UPDATING LANGUAGE TO CODIFY AND REFLECT BEST MANAGEMENT PRACTICES**

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

WHEREAS, the District is responsible for making and enforcing anchoring regulations in San Diego Bay; and

WHEREAS, current District Code Section 4.38 governs and regulates vessels in the A-1 Anchorage, located in La Playa Cove near Shelter Island, the A-5 Anchorage, located in Glorietta Bay in Coronado, and the A-9 Anchorage (The "Cruiser" Anchorage), located at the foot of Laurel Street and North Harbor Drive; and

WHEREAS, staff recommends amending Article 4, Section 4.38 of the San Diego Unified Port District Code regulating vessels in the A-1, A-5, and A-9 Anchorages to include the Shelter Island Guest Dock, add insurance requirements, and modify language to codify and reflect best management practices; and

WHEREAS, the Board of Port Commissioners last updated Article 4, Section 38 of the San Diego Unified Port District Code in 2003 and 2008; and

WHEREAS, in 2003, the Board amended the regulation to include time limitations, incorporate A-9, and it further allowed for enforcement of this section; and

WHEREAS, in 2008, the Board amended the regulation to mirror the former A-8 anchorage ordinance in allowing the District to refuse to issue or revoke anchoring permits to those persons who fail to comply with Federal, State and local laws, as well as those who have outstanding fees or charges owed to the District for damage to District property, towing and storage of a vessel, or those persons

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who fail to remove their abandoned, beached or sunken vessels from tidelands; and

WHEREAS, the Bay Control Units have done an excellent job of enforcing the current ordinance, but these amendments will codify the best management practices and assist them in ensuring our Bay continues to be a safe place for all those who visit; and

WHEREAS, the proposed amendments would include Shelter Island Guest Dock within Port Code Section 4.38; and

WHEREAS, many individuals utilizing the short term anchorages, as well as the cruise anchorage would use them in conjunction with the Shelter Island Guest Dock; and

WHEREAS, in order to assist Harbor Police as a tool for enforcement, as well as to display clear expectations of the prohibited activities, staff believes adding the Shelter Island Guest Dock to this section provides a holistic approach; and

WHEREAS, recommended additions to the Code to reflect best management practices include requirements for vessels to be in good condition, vessel inspections, declaration of voyage itinerary, time limits for use, prohibition of commercial vessels, prohibition of major repair activities, and others; and

WHEREAS, staff recommends adding insurance requirements in order to obtain a permit for the A-1, A-5, A-9 anchorages and the Shelter Island Guest Dock; and

WHEREAS, Maritime staff benchmarked other public anchorages, as well as the local San Diego marinas to determine what if any insurance requirements would be appropriate and it was found that not many port-governed anchorages existed; however, all harbors had some type of insurance requirements; and

WHEREAS, locally, all marinas in San Diego have insurance requirements; and

WHEREAS, in order to protect the District, and in line with all the marinas in San Diego county, adding insurance requirements is an important tool to maintain a safe and clean bay; and

WHEREAS, previously, the Board approved insurance requirements for commercial fishing vessels requiring \$300,000 in coverage; and

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WHEREAS, in order to have consistent insurance requirements, staff recommends having Protection & Indemnity insurance with limits of liability not less than \$300,000 which shall include coverage for bodily injury, oil pollution, as well as wreck and removal and shall include the Port as an additional insured; and

WHEREAS, staff recommends having the insurance requirements be effective May 1, 2024; and

WHEREAS, the amendments will assist in ensuring that all boaters are treated on a fair and equal basis and the anchorages and guest dock slips are made available to as many boaters as possible; and

WHEREAS, staff recommends amending Article 4, Section 4.38 of the San Diego Unified Port District Code regulating vessels in the A-1, A-5, and A-9 Anchorages to include the Shelter Island Guest Dock, add insurance requirements, and modify language to codify and reflect best management practices; and

WHEREAS, this staff recommendation is the result of extensive stakeholder outreach and participation; and

WHEREAS, based upon all information available to District staff, it was determined the proposed 4.38 amendments meet the needs of the public, and are consistent with the District's responsibilities in regards to the Tideland's trust; and

WHEREAS, the Board conducted a public hearing on the proposed changes on May 9, 2023.

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

Section 1. Article 4, Section 4.38 of the San Diego Unified Port District Code regulating vessels in the A-1, A-5, and A-9 Anchorages is hereby amended to read as follows to include the Shelter Island Guest Dock, add insurance requirements, and modify language to codify and reflect best management practices:

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

(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

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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, A-9 Anchorages, and Shelter Island Guest Dock.

(b) Definitions:

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

1. "A-1 Anchorage" – In North San Diego Bay, the Shelter Island (La Playa Cove) Yacht Basin Anchorage, the water enclosed by a line beginning at latitude 32°42'56.7"N., longitude 117°13'47.1"W.; thence southwesterly to latitude 32°42'53.6"N., longitude 117°13'51.3"W.; thence northwesterly to latitude 32°43'01.3"N., longitude 117°13'59.1"W.; thence northeasterly to latitude 32°43'02.6"N., longitude 117°13'55.5"W.; thence southeasterly to latitude 32°42'59.8"N., longitude 117°13'50.4"W.; thence southeasterly to the point of beginning.
2. "A-5 Anchorage" – In Central San Diego Bay, the Glorietta Bay Anchorage, the water enclosed by a line beginning at latitude 32°40'42.2"N., longitude 117°10'03.1"W.; thence southwesterly to latitude 32°40'41.2"N., longitude 117°10'06.6"W.; thence northwesterly to latitude 32°40'46.2"N., longitude 117°13'15.6"W.; thence northeasterly to latitude 32°40'46.7"N., longitude 117°10'14.1"W.; thence southeasterly to the point of beginning.
3. "A-9 Anchorage" – In North San Diego Bay, the "Cruiser" Anchorage, the water enclosed by a line beginning at latitude 32°43'35.9"N., longitude 117°11'06.2"W.; thence southwesterly to latitude 32°43'31.5"N., longitude 117°11'13.2"W.; thence southeasterly to latitude 32°43'28.9"N., longitude 117°11'11.0"W.; thence southeasterly to latitude 32°43'25.9"N., longitude 117°11'07.7"W.; thence northeasterly to latitude 32°43'34.8"N., longitude 117°11'03.2"W.; thence northwesterly to the point of beginning.

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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 or Guest Dock Permit.
8. "Cruiser" Vessel – A cruiser vessel is a visiting vessel, not from the County of San Diego, traveling between ports on a voyage.
9. "District" – The San Diego Unified Port District.
10. "Executive Director" – Executive Director of the San Diego Unified Port District.
11. "Permittee" – Person (as defined in Section 0.03 of this Code) who has acquired an Anchoring or Guest Dock Permit from the District to anchor in the A-1 Anchorage, the A-5 Anchorage, the A-9 Anchorage, or the dock at the Shelter Island Guest Dock.
12. "Propulsion System" – A system which is designed to propel a vessel through the water through the use of mechanical power.
13. "Seaworthy" – Describes a vessel in good material condition which is not likely to sink or become a menace to navigation or a nuisance, and which is capable of getting underway and navigating safely using its own propulsion system, without relying on a tow.
14. "Sewage" – Human body waste, either treated or untreated.
15. "Shelter Island Guest Dock" – In North San Diego Bay, entrance to the Shelter Island Yacht Basin, the slips located at latitude 32°42'58"N., longitude 117°14'07"W.

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16. "Guest Dock Permit" – A document conferring the right to use an assigned slip at the Shelter Island Guest Dock for a designated period of time.
17. "Vessel" – a watercraft designed to float upon the surface of a body of water for the purpose of transporting Persons or property.
18. "Waste" – Sewage and all other waste or substances associated with human habitation, or of human or animal waste.

(c) Anchoring and Guest Dock Permits:

1. No Person, including the owner, master, operator, caretaker, or Person in possession of a vessel, shall anchor a vessel in the A-1 Anchorage, the A-5 Anchorage, the A-9 Anchorage, or dock a vessel at the Shelter Island Guest Dock without first having secured an Anchoring/Guest Dock Permit from the District in the form and manner provided therefor. Vessels shall not remain anchored or docked after the Anchoring/Guest Dock permit has expired.
2. Any vessel anchoring in the A-1 Anchorage, the A-5 Anchorage, the A-9 Anchorage, or docked at the Shelter Island Guest Dock must have a propulsion system and operate under its own power, must have petroleum free bilges, and must be seaworthy.
3. All vessels shall be moored by vessel owner or operator in a safe manner, on cleats, with strong adequate lines. For vessels anchoring, vessels must use adequate ground tackle.
4. All applicants requesting a Guest Dock or Anchorage permit are required to provide proof of marine insurance for the permitted vessel in the following coverage and liability limits: Applicants shall provide proof of Protection & Indemnity (P & I) insurance with limits of liability not less than \$300,000. Such insurance shall include coverage for bodily injury including death and medical expenses, oil pollution, as well as property damage including coverage for removal and wreck including expenses and costs to dispose of and remove contaminants connected with the vessel. San Diego Unified Port District shall be named an Additional Insured. This insurance requirement is effective May 1, 2024.

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5. For an Anchoring Permit to be issued for the A-9 Anchorage only, the following must be satisfied: verification of ownership, verification of registration; inspection for seaworthiness, sanitary facilities, waste containers, safety and fire suppression equipment and other safety and health-related equipment as may be prescribed by law. Vessels may be required to provide a voyage itinerary to prove "Cruiser" status.
6. No Person on board any vessel, on which construction was initiated on or after January 30, 1975, in the A-1, A-5 or A-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) Vessel Inspections:

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

(e) Anchoring or Guest Dock Purposes Only:

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

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

The District shall have the right at all times to refuse to issue or reissue an Anchoring/Guest Dock Permit to any vessel if it determines that the vessel fails to meet any condition of this Section 4.38, as amended, is not seaworthy, properly maintained, or presents a danger to public safety, District property, other vessels, or the property of another, or if the Permittee, or any other Person using, possessing or controlling the vessel fails to comply with any Federal, State or local laws, or any terms and conditions of the Anchoring/Guest Dock Permit, or if the Permittee, or any other Person

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using, possessing or controlling the vessel has any outstanding fees or charges owed to the District for damage to District property, towing and storage of a vessel, or failing to remove any derelict, beached, or sunken or partially sunken vessel, or causing the abandonment of a vessel.

(g) Permit Guidelines and Limitations:

1. A-1 Anchorage – The A-1 Anchorage is a maximum of Seventy-Two (72) hour anchorage open for weekend anchorage only. A-1 Anchoring Permits are available for a maximum of three (3) days and shall be issued for the period beginning each Friday at 9:00 AM and ending each Monday at 9:00 AM.
 - a) The Seventy-Two (72) hour period shall be extended on holiday weekends when the holiday, as recognized and observed by the District, is observed on Mondays. The period of the Anchoring Permit shall be extended to Tuesday at 9:00 AM.
 - b) The Seventy-Two (72) hour period may also be extended or altered for holidays that fall on other than Saturday through Monday, with the approval of the Executive Director or his/her designee.
 - c) No Person shall anchor a vessel, nor allow a vessel to remain anchored, in the A-1 Anchorage when the Anchoring Permit has expired.
2. A-5 Anchorage – The A-5 Anchorage is a maximum Seventy-Two (72) hour anchorage, available seven (7) days per week.
 - a) No person shall anchor a vessel, nor allow a vessel to remain anchored, in the A-5 Anchorage when the Anchoring Permit has expired.
3. No more than Nine (9) permitted days may be issued for either anchorage or both anchorages cumulative to any Person or vessel in any calendar month.
4. A-9 Anchorage – The A-9 Anchorage is designated for use by "Cruiser" Vessels as defined in Section (b)8 and clarified in Section (c) 5, above, of this Section.

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- a) A Cruiser Vessel may not be registered or documented to an address in San Diego County and the owner/operator may not be a resident of San Diego County.
 - b) An A-9 Anchoring Permit will be issued for a Thirty (30) day period.
 - c) No vessel shall be allowed to anchor for more than Ninety (90) days in any Three Hundred Sixty-Five (365) day period.
5. Shelter Island Guest Dock- The Shelter Island Guest Dock has a limited number of slips of various sizes with shore power and potable water. Guest Dock Permits shall be issued for the period beginning each day at 1:00 PM and ending on the day of check-out at 11:00 AM. There are two Pump-Out slips that do not require a permit.
- a) There is a Thirty (30) minute time limit at the Pump- Out slips. Pump-Out Slips are not temporary berthing slips, and individuals must remain present and actively pumping out during the utilization of the Pump-Out Slips. Failure to be present and actively pumping during Pump-Out Slip utilization may result in citation and/or additional charges.
 - b) Pump-Out slips must be returned to exact conditions as found in, and any modifications are not permitted.
 - c) Nothing can be stored on the dock besides equipment needed for shore power, fresh water, and vessel access.
 - d) Early arrivals and late departures are prohibited and may result in citation and/or additional charges.
 - e) Non-permit holders are prohibited from launching vessels from the guest docks.
- (h) Prohibited Uses and Activities

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

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1. Business or commercial enterprise is prohibited.
2. Commercial chartering vessels and/or vessels for hire are prohibited. No Person shall load or allow the loading of passengers for hire on any vessel, commercial or otherwise, within the Shelter Island Guest Docks.
3. Barges and floating docks are prohibited.
4. The tying/lashing of dinghies or other small craft are allowed to be tied up to a permitted vessel, and may not obstruct access to another slip.
5. No more than Two (2) dinghies or other small craft are allowed to be tied up to a permitted vessel, and may not obstruct access to another slip.
6. Vessels more than Sixty-Five (65) feet in length are prohibited from anchoring and docking unless approved by the Executive Director or his/her designee.
7. No materials or supplies shall be stored on floating docks or walkways within the transient dock area. All items must be kept within the confines of the permit holder's vessel. Items left or stored on docks may be confiscated by the District staff.
8. Water, power, or mooring lines shall not cross the floating docks or main walking areas (Unless power lines are connecting to slip provided outlets).
9. Fueling or transferring of fuel to and from the guest docks strictly prohibited.
10. No modifications or permanent attachments shall be made to the permittee's slip and adjacent areas.
11. Fishing from the Guest Dock and vessels moored to the Guest Dock is prohibited. No Person shall attempt to take any marine life by any method from the San Diego Bay waters.
12. No Person shall swim or dive within the Shelter Island Guest Dock area without permission from District staff. Dive operations require a special permit from District staff.

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13. No Person shall deposit or cause to be deposited any garbage, refuse, or any other waste materials of any kind from the Guest Dock or vessels moored to the Guest Dock into the San Diego Bay.
14. No Person on board any vessel, on which construction was initiated on or after January 30, 1975, in the A-1, A-5, A-9 Anchorages or Shelter Island Guest Dock, shall use the toilet on board such vessel unless it is equipped with a suitable marine sanitation device or other United States Environmental 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.
15. Vessel Maintenance

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

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

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- f) District provided trash bins/dumpsters shall not be used for any excessive waste created from maintenance/repairs done to vessels. Vessel owners are responsible for disposing excessive waste from maintenance/repairs offsite.
16. Animals shall always be leashed and controlled by the permit holder. Pet owners shall be responsible for all pets' actions within any area of the Shelter Island Guest Docks; including, the floating docks, grass area, and parking lot. Should any pet act as a nuisance by displaying aggressive behavior, roaming free off-leash, defecating, or disturbing the peace, such animal shall be removed, or the District may revoke the permit.
 17. Disorderly or discourteous conduct by Permittee or guests may result in the immediate cancellation of the permit and removal of the permitted vessel.
 18. With exception of ADA approved mobility devices, the use of motorized or manually powered vehicles at the guest docks is strictly forbidden. All guests must walk within the guest dock area.
 19. Anchorage/Guest Dock permits are not transferable. If a vessel changes ownership while at the guest docks any existing reservation shall end on the day of the transfer of ownership, and maritime staff must be notified.
- (i) Violations
1. Any Person who violates any provision of this Section is guilty of a misdemeanor unless, at the sole option of the District, the violation is cited and prosecuted as an infraction or addressed through the assessment of civil penalties.
 2. An Anchoring Permit may be revoked for violation of any Federal, State, or local statute or ordinance.
 3. Any vessel anchored or docked in violation of any provision of this Section is subject to removal and storage, by any Harbor Police Officer, pursuant to Section 8.25 (a) of this Code. The registered and/or legal owner of the vessel may be liable for all costs related to the removal and storage of the vessel.

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4. Upon any violation of the rules of this Code or the terms and conditions of the permit, the Executive Director or his/her designee may at his/her sole discretion implement a restriction of 30, 60, or 90 days or permanent ineligibility for permits for the Anchorages and Guest Docks. Persons will be notified by email when their accounts have been placed on a restriction.

(j) Revocation of Anchoring/Guest Dock Permit

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

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

1. If the District refuses to issue an Anchoring/Guest Dock Permit, as described in Section (f), above, and Applicant for such Anchoring Permit believes he/she satisfies all conditions for the issuance of an Anchoring/Guest Dock Permit, Applicant may appeal, in writing, to the Executive Director within Ten (10) calendar days of the date of refusal. The appeal should contain all reasons why Applicant believes he/she satisfies all conditions for the issuance of said Anchoring/Guest Dock Permit.
2. If the District revokes an Anchoring/Guest Dock Permit as described in Section (j), above, Permittee may appeal such revocation, in writing, to the Executive Director within Ten (10) calendar days of the date of revocation. The appeal should contain all reasons why Permittee believes the revocation of the Anchoring/Guest Dock Permit to be improper.
3. The Executive Director or his/her designated representative shall respond within Ten (10) calendar days of the receipt of

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appeal, giving a written decision. The decision of the Executive Director or his/her designated representative shall be final.

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

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 9th day of May 2023, by the following vote: