



Legislation Text

File #: 2023-0100, **Version:** 1

DATE: May 09, 2023

SUBJECT:

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

EXECUTIVE SUMMARY:

The District is responsible for making and enforcing anchoring regulations in San Diego Bay. 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.

Staff recommends amending and modifying Port Code language to include Shelter Island Guest Dock, add insurance requirements, and other modified language to codify and reflect best management practices.

RECOMMENDATION:

Adopt an Ordinance 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.

FISCAL IMPACT:

Not applicable.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A Port that is a safe place to visit, work and play.

DISCUSSION:

The Board of Port Commissioners last updated Article 4, Section 38 of the San Diego Unified Port District Code in 2003 and 2008. In 2003, the Board amended the regulation to include time limitations, and incorporate A-9. It further allowed for enforcement of this section. 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 who fail to remove their abandoned, beached or sunken vessels from tidelands.

Until 2021, Harbor Police provided both the administration of the permitting process as well as the enforcement of Section 4.38. Responsibilities for the administration of the permitting process have since been designated to the District's Maritime Department, who works in collaboration with the Harbor Police Department.

For the past four years, Port staff has been engaged with stakeholders interested in improving the permitting process and requests for further enforcement. It was found that there appeared to be false profiles online reserving anchoring permits, boaters staying past the permitting timelines, and difficulties by users in utilizing the actual anchorages and slips efficiently. Port Maritime and Harbor Police have worked closely with stakeholders to improve the ease of permitting, the safety of our stakeholders, and the safety district assets. Within the last year, we have deactivated most if not all previous faulty accounts. Boaters may no longer create accounts online. The current software has no way to verify valid ownership/registration. All new accounts are verified and created through the Maritime Operations office. This includes reviewing and verifying proof of ownership, and proof of boat registrations. In addition, staff has implemented temporary holds on accounts for violations of permit rules, as well as not having a valid reservation for the anchorages.

The current code prescribes reservations to be for three days, the system is now capable of allowing a one (1) day minimum and three (3) day maximum. This way, if a permittee is only requiring to come for a single day- they do not occupy a permit for all three days; giving others an opportunity to utilize the space.

The Bay Patrol 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.

The proposed amendments would include Shelter Island Guest Dock within Port Code Section 4.38. Many individuals utilizing the short term anchorages, as well as the cruise anchorage would use them in conjunction with the Shelter Island Guest Dock. 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.

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.

In addition, 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. Maritime staff benchmarked other public anchorages, as well as the local San Diego marinas to determine what if any insurance requirements would be appropriate. In the research, it was found that not many port governed anchorages existed however all harbors had some type of insurance requirements. Locally, all marinas in San Diego have insurance requirements. 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. Previously, the Board approved insurance requirements for commercial fishing vessels requiring \$300,000 in coverage. 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. Staff recommends having the insurance requirements be effective May 1, 2024.

Stakeholder Outreach:

This staff recommendation is the result of extensive stakeholder outreach and participation. Maritime began conducting meetings on September 8th, 2021 which included representatives from the South Western Yacht Club, San Diego Yacht Club, Silver Gate Yacht Club, Coronado Yacht Club, members of the Recreational Mariners Subcommittee of the Working Waterfront Group, registered users, Harbor Police, marine insurance brokers, Harbor Safety Committee members, and the U.S. Coast Guard. Meetings continued through 2022 and early 2023. Once the amendments were drafted, public meetings and workshops were held on March 15th and March 29th, 2023, respectively. Proposed drafts of the ordinance were provided to attendees. Although several speakers favored and opposed the ordinance amendments, all of these recommendations are based on input from the boating community. In addition, staff presented at the Harbor Safety Committee, and conducted a survey of all registered users. Out of 183 registered users, 139 responses were received. Staff additionally met with marine insurance brokers to understand the liability costs, review language, and understand what type of policies are utilized locally.

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

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda and proposed Ordinance, as presented, as to form and legality.

Environmental Review:

The proposed Board action, including without limitation, an amendment of 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, does not constitute a project under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because there is not a potential to result in a direct or indirect physical change in the environment. Therefore, the proposed Board action is not subject to CEQA and no further action under CEQA is required.

The proposed Board action complies with Sections 21 and 35 of the Port Act, which allow the Board to pass resolutions; and to do all acts necessary and convenient for the exercise of its powers. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

The proposed Board action does not allow for development, as defined in Section 30106 of the California Coastal Act, or new development, pursuant to Section 1.a. of the District's Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or an exclusion finding is not required.

Diversity, Equity, and Inclusion Program:

This agenda sheet has no direct DEI impact on District workforce or contract reporting at this time.

PREPARED BY:

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Attachment(s):

Attachment A: Proposed amendment to Section 4.38