

## **CHAPTER 1 - GENERAL PROVISIONS AND DEFINITIONS**

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### **1.010 - Enactment, authority and applicability**

- A. The ordinances contained in the following chapters and sections shall constitute and be identified as "The Port San Luis Code of Ordinances". The Port San Luis Code of Ordinances may also be cited within the following chapters and sections as "this Code", and the "Code of Ordinances."
- B. The provisions of this Code are adopted pursuant to the authority vested in the Port San Luis Harbor District by the State of California, including but not limited to Article X of the California State Constitution, Sections 6000 et seq. of the Harbors and Navigation Code, Sections 65920 et seq. of the Government Code, Section 21082 of the Public Resources Code, and Section 15161, Chapter 3, Title 14, California Code of Regulations, and all other applicable state and federal laws.
- C. The provisions of this Code are applicable to all areas of water, lands and facilities under the ownership and jurisdiction of the Port San Luis Harbor District, as such jurisdiction is defined by California state law.

### **1.100 - Definitions**

This section defines the terms and phrases used in this Code that are technical or specialized, or that, for the purposes of this Code, may not reflect common usage. Where any of the following definitions conflict with definitions used in any of the technical codes adopted in Chapter 12 of this Code (Construction Codes) the definitions in this section shall prevail.

Abandoned vessel. Any hulk, derelict, wreck, or parts of any vessel sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon state tidelands for a period longer than 30 days without a watchman or other person stationed upon or near, and in charge of the vessel.

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Alternate vessel. A vessel (1) owned or leased by the permit holder, (2) listed on the District Mooring Permit for that mooring, (3) placed on the permit holder's mooring and (4) within the permitted category of use.

Anchor or anchoring. The use of weights, chains, cables, hooks, and other devices suspended from a vessel for the purpose of making a vessel reasonably stationary on the surface by providing a drag on the sea floor. Anchors are taken onboard the vessel when it gets underway.

Anchorage area. An area of water overlying the tidelands of the District designated by the Commission as a location for the anchoring of certain classes of vessels for particular periods of time, as established in the Water Use Plan. (See Chapter 16 of this Code)

Annual inspection. The yearly process of raising a mooring to the surface for visual inspection, replacement of parts, and replacement of mooring on the sea bottom by the District.

Applicant. Any person or entity making application to the Board for approval of a land use or construction permit pursuant to this chapter.

Beach. The sandy portion of land located between the low water mark of the Pacific Ocean and the upland, bluff, seawall, street, curb, or sidewalk leading directly to and including the sandy beach.

Berth. The act or condition of tying or making fast to or otherwise docking adjacent to any wharf, dock, landing, or other structure within the harbor or coming to rest adjacent to any wharf, dock, landing, or other structure.

Berthing arrangement. That condition wherein the owner or master of a vessel has sought and been given permission to berth at any wharf within the harbor.

Board, or Board of Commissioners. The Board of Harbor Commissioners of the Port San Luis Harbor District.

Building Official. The person or persons designated by the Harbor Manager as having the responsibility and authority to administer the provisions of Chapter 12 of this Code (Construction Codes), including but not limited to construction permit application processing, plan check, and inspection of construction in progress, pursuant to the technical codes adopted pursuant to Chapter 12.

Camping. For the purpose of this Code, any motor vehicle parking during the hours of 10 PM and 6 AM which contains a person/persons sleeping therein, or contains bedding arranged for the purpose of, or in such a way as to permit, the occupants thereof to remain overnight, or any vehicle thus described parking at any time in any area designated by the District for RV parking, shall be deemed to be camping. Additionally, 'Camping' shall refer to a person/persons sleeping, whether in a tent or other enclosure or not, on any beach or other District property between the hours of 10 PM and 6 AM.

Categories of use. Functional areas established by District for the primary use of commercial vessels, sail vessels, sport vessels, transient vessels or other vessels that may be designated by the District, as described in the water use plan. (See Chapter 16 of this Code)

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CEQA. The California Environmental Quality Act, Sections 21000 et seq. of the California Public Resources Code.

Citation. A Notice to Appear or Notice of Violation.

Coastal Commission. The California Coastal Commission, as established by the California Coastal Act of 1976.

Commercial. As shown on the Water Use Plan, a commercial designation means any of the following:

- a. Commercial fishing vessel. A vessel that has a current U.S Coast Guard Documentation *Fishery* Endorsement or is registered as Commercial by the California Dept. of Motor Vehicles and the California Department of Fish and Wildlife, or is otherwise determined by the Board to be a commercial fishing vessel.
- b. Commercial Livery vessel. A vessel that has a current U.S. Coast Guard Documentation *Coastwise* Endorsement or is registered as Livery by the California Dept. of Motor Vehicles and is utilized for hire or compensation in the transit of people. The vessel and its skipper must both be certified by the Coast Guard, except for those vessels that do not require Coast Guard certification (i.e. [6] six-pac boats).

Commercial Fisherman. To qualify for the fee schedule outlined in Chapter 4, Section 4.525, a commercial fisherman must meet all of the following requirements:

1. Must own a vessel with:
  - a. current California Dept. of Fish and Wildlife Commercial Fishing License consistent with District permits; and
  - b. current California Dept. of Fish and Wildlife Commercial Vessel Registration consistent with District permits; or
  - c. current United States Coast Guard Commercial Certificate of Documentation consistent with District permits.
2. Must provide California Dept. of Fish and Wildlife Fish Landing Receipts for the past 12 months totaling at least \$5,000. Should a previously qualifying patron, through regulatory action, be unable to fulfill this requirement, this requirement may be waived by Harbor Manager on receipt of a written request for such a waiver.
3. Must be a Harbor District permit holder for at least twelve (12) continuous months prior to application. This requirement may be waived by Harbor Manager on receipt of a written request for such a waiver submitted by the Port San Luis Commercial Fishermen's Association outlining reasons to justify request.
4. Must have no record of a District account past due more than 60 days in the previous twelve months.

Commercial vessel mooring ownership option. The right of commercial mooring owners to purchase additional moorings for use by commercial vessels, subject to approval by the District.

Committee. Any person or persons appointed by the Board to consider or review a project of the Harbor District.

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Construction permit. A building, plumbing, electrical, or mechanical permit as required by this Code.

County. The County of San Luis Obispo, California.

Day Use. Free parking on designated District property between the hours of 6:00a.m. and 10:00p.m.

Dealer. An individual, organization, company, or partner that sells more than one vessel with a mooring within a 12-month period.

District. The Port San Luis Harbor District formed under and by virtue of the laws of the State of California. The Harbor Manager or his designee is the sole agent of District for purposes of the administration and implementation of this Code.

Diving. To plunge from any height, especially but not limited to head-first into the water.

Dockage. The monetary rate and charge assessed against a vessel for berthing at, or making fast to any wharf, dock or mooring within the harbor, or to another vessel secured to a wharf, dock or within the District.

Environmental Coordinator. The person or persons designated by the Board to administer the provisions of Chapter 10 of this Code. The Harbor Manager or his/her designee shall serve as the Environmental Coordinator unless another person is so designated by the Board.

Guidelines. The California State CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3.

Harbor. The tidelands within the Port San Luis Harbor District (see the definition of "tidelands", below), together with all of the wharfs, real properties or interests in real property now, or in the future, owned by the District, and any portion of the Pacific Ocean not within the area defined below as the tidelands but within 500 yards of any real property within which the District has an interest.

Harbor Manager. The Harbor Manager appointed by the Board of Harbor Commissioners of the Port San Luis Harbor District, or his/her designated representative.

Harbor Police. Harbor District employees as defined in the California Harbors and Navigation Code and California Penal Code, commonly known as Harbor Patrol Officers.

Harbors and Navigation Code. The Harbors and Navigation Code of the State of California.

Household pet. Includes cats, dogs, canaries, parrots and other birds and animals customarily kept as household pets.

Immediate Family. For the purposes of this Code, immediate family shall be defined as spouse, child, brother, sister, parents, step parents, and step brothers and sisters.

Industrial support vessel. A vessel, that is used to support oil tankers, oil rigs, platforms or drill ships and/or to clean-up or contain oil spills, or other industrial facility.

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Land use permit. An Administrative Permit or Use Permit processed and approved pursuant to Chapter 8 of this Code.

Local Coastal Plan or LCP. The Local Coastal Program adopted by the County of San Luis Obispo and certified by the California Coastal Commission, pursuant to the California Coastal Act of 1976.

Master Plan. That document adopted by the Board, entitled "Port San Luis Master Plan and Local Coastal Program," and as periodically amended hereafter.

Merchandise. All goods, wares and fish, of every kind and description, including but not limited to material, freight, cargo, ice and animals.

Moor. The act of making a vessel fast to a mooring.

Moored facility. A floating structure attached with District permission to one or more moorings, such as a work dock, swimming float, fish hatchery pen, other aquaculture or mariculture facilities including barge-type systems, bait receiver, fuel float or other non-motorized float.

Mooring. A free-standing combination of weights, chains, cables, hooks, buoys and other devices placed at one location on the tideland for a period longer than anchoring for the purpose of making vessels reasonably stationary on the surface by providing a drag on the sea floor.

Mooring area. That area of water overlying the State tidelands designated by the Board of Commissioners as a location for the mooring of certain classes of vessels for particular periods of time, as set forth in the Water Use Plan (See Chapter 16 of this Code).

Mooring relocation. The action by which the District shall move moorings in accordance with this Code, and offer permit holders an option to relocate moorings, in accordance with their mooring seniority and category of use.

Mooring, seasonal. Moorings owned by the District, lessees/licenses, or other designated organizations or agencies for seasonal use of vessels as assigned by the District.

Mooring seniority. A ranking of position, in chronological order, according to the date the District Mooring Application Form is deemed complete, or the date the owner of the mooring opened an account with District, if prior to August 1, 1989.

Mooring space. The area potentially occupied by a mooring (including seasonal and transient moorings) or a vessel attached to a mooring in accordance with District laws and regulations.

Mooring, transient. Moorings owned and placed by the District to serve transient vessels.

Mooring waiting list. The chronologically dated list of names of persons maintained by the District according to category of use, who are waiting for a Mooring Permit.

Permit holder or permittee. A person to whom a land use, construction, mooring or other permit has issued by the District pursuant to this Code.

Person. Any and all persons, firms, joint ventures, partnerships, associations and corporations.

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Pier. Any wharf or pier owned by the District, located at Avila Beach or Port San Luis, County of San Luis Obispo, State of California, and any adjacent or adjoining landing, quay, float, structures or embarkment that is intended or normally used for securing a vessel while transferring foods, merchandise and/or passengers to and from land. "Pier" shall also include all the area between the pierhead and bulkhead lines.

Power. Where designated on the Water Use Plan, a non-commercial vessel powered primarily by gasoline, diesel or other fueled engine.

Project. As defined by Section 21065 of CEQA and Section 15378 of the CEQA Guidelines, and as further defined by Chapter 10 of this Code.

Resale. The act of selling an item again on either a retail or wholesale basis.

Retail. The sale of goods or commodities in small quantities to the final consumer.

Sail. Where designated on the Water Use Plan, a vessel powered primarily by sail.

Scope of Work. A narrative specifying the contents of an EIR and the research methods, analytical techniques, and consultant services considered appropriate for preparation of an adequate EIR.

Sea bed. All lands seaward of the mean high-tide mark in which the District owns, or may in the future own an interest, whether or not submerged.

Skiff. A vessel, propelled by either oar or outboard motor, used for the transportation of persons and/or gear to an anchored or moored vessel from Harford/Avila Pier, and no longer than 14 feet long, unless otherwise approved by Harbor Manager and Harbor Patrol Chief.

Small boat mooring area. The portion of the District tidelands used by the District to maintain moorings, lying between the southernmost end of Cal Poly Pier and a line running to the seawardmost tip of the Point San Luis breakwater, except the area within 200 feet of the Harford Pier and Cal Poly Pier and within the marked approach channel near the end of the Harford Pier as set forth in the Water Use Plan (See Chapter 16 of this Code).

Sport fishing boat. Where designated on the Water Use Plan, a commercial recreational vessel used to transport people for non-commercial fishing or pleasure excursions.

Stray animal. An abandoned animal, an animal the owner of which is unknown, or an animal wandering without a competent person present and in command.

Swimming beach. Avila Beach, Olde Port Beach, and Fisherman's Beach are designated swimming beaches and identified by regulatory buoys.

Tariffs. A schedule or collection of schedules, or fees charged by the District to any person for which collection of a fee is authorized by this Code. Tariff also refers to an individual charge levied by the District for any privilege granted or service rendered by the District to any person, excluding privilege granted by lease or rental agreement. Tariff includes, but is not limited to anchorage, dockage, wharfage, storage, commercial usage and non-commercial usage licenses.

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Technical Codes. The Uniform Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, Uniform Sign Code, or any other document containing standards and/or specifications for construction adopted by reference as part of this title.

Tidelands. The State Tidelands area granted to the Port San Luis Harbor District pursuant to Chapter 647 of the Statutes of 1955, as amended by Chapter 302 of the Statutes of 1957. For the purposes of Chapter 16, Mooring and Water Use, tidelands shall mean only those areas of the District seaward of the historic mean high tide line as defined in state law, to the established line of demarcation running from Point San Luis to Fossil Point.

Transient vessel. Any vessel that does not have the legal right to occupy a mooring (other than a transient or rental mooring) within the boundaries of District. (See Section 8.120 for the definition of "Transient Vessel Support.")

Cal Poly Pier. The steel and concrete pier located between the two District-owned wooden piers.

Unseaworthy vessel. A vessel without adequate and safe means of propulsion and/or a vessel certified by a licensed marine surveyor to be unsafe and/or which exhibits evidence of being in danger of sinking or otherwise becoming a hazard.

Vessel. Every type of water craft, however powered, that is owned, controlled, operated or managed for public or private use in the transportation of persons or property. Such craft include but are not limited to ships, boats, barges, seaplanes, jet skis, row boats, skiffs, tenders, tugs and rafts.

Visitor vessel. A boat from another port occupying a mooring by permission of the permit holder and with the authorization of District.

Water Use Plan. The assigned uses of the tidelands of the District by adoption by the Board of Commissioners, as shown on the District Water Use Plan map, in Chapter 16 of this Code and, and other applicable rules, regulations and policies of the District.

Wharf. Any wharf or pier owned by the District, located at Avila Beach or Port San Luis, County of San Luis Obispo, State of California, and any adjacent or adjoining landing, quay, float, structures or embankment that is intended or normally used for securing a vessel while transferring goods, merchandise and/or passengers to and from land. "Wharf" shall also include all the area between the pierhead and bulkhead lines.

Wharfage. The fee assessed by the District for the passage of merchandise seafood, and/or passengers over any District wharf, or for which the use of any wharf, its approaches and appurtenances is used to facilitate any passage of merchandise and/or passengers from vessel to vessel.

Wholesale. The sale of goods or commodities in large quantities to a buyer who resells them to the final consumer at retail prices.

**1.110 - Rules of construction and interpretation**

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The Harbor Manager shall have the responsibility and authority to interpret the provisions of this Code and advise the public about its requirements. The terms and phrases used in this Code shall be construed and interpreted as follows:

- A. Construction. When used in this Code, the word "shall," is always mandatory and "may" is discretionary. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The titles of every chapter and section of the Code of Ordinances are a part of each chapter and section and shall be construed as such when questions of meaning or construction arise.
- B. Number of days. Whenever a number of days is specified in this Code, or in any permit, condition of approval or notice issued or given as provided in this Code, such number of days shall be construed as business or working days, except where this Code otherwise uses the term "calendar days."
- C. Minimum requirements. When interpreting and applying the regulations of this Code, all provisions shall be considered to be the minimum requirements, unless stated otherwise.

**1.200 - Amendments to Code of Ordinances**

- A. Procedure for amendments. The Port San Luis Harbor District Code of Ordinances may be amended whenever the Board of Harbor Commissioners determines that public necessity, convenience, or welfare require. Any such amendments to this Code shall be initiated and processed in a manner consistent with the requirements of the Harbors and Navigation Code, with a public hearing on such amendments conducted as set forth in Section 8.060 of this Code.
- B. Distribution of completed amendments. The Harbor Manager shall provide without charge a true copy of any amendments to this Code to the following persons and agencies within 60 days of the enactment of such amendments.
  - (1) Each commissioner of the District.
  - (2) The Attorney General of the State of California.
  - (3) The San Luis Obispo County Counsel.
  - (4) The San Luis Obispo County District Attorney.
  - (5) The San Luis Obispo County Law Library.
  - (6) The San Luis Obispo County Sheriff.
  - (7) Each San Luis Obispo County Municipal Court Judge.
  - (8) The District Harbor Patrol Department.

**1.400 - General rules for use of District property**

All persons visiting, occupying or otherwise using Harbor District property shall observe and comply with the provisions of Sections 1.410 et seq., in addition to the District Health and Safety Regulations in Chapter 18 of this Code and all other applicable provisions of this Code.

**1.410 - District approval required for any use**

Any use of the waters, lands and facilities under the ownership and jurisdiction of the Port San Luis Harbor District by any person shall require the consent of the District, as expressed in the provisions of Chapters 8, 12, 14, 16, 18, and 20 of this Code regarding specific uses and



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activities, and as otherwise granted by the Board of Harbor Commissioners, or by Harbor Manager pursuant to the authority granted by this Code.

**1.420 – Enforcement; Closure of Harbor District Property**

A. The Harbor District, including officers, employees and agents are authorized to close to public use any Harbor District property and/or facility, or portion thereof, or restrict the times when the same shall be open to such use, or limit or prohibit boating, fishing, or other recreational uses thereof, whenever, in their reasonable judgment, it is deemed prudent to take any such actions in order to safeguard the health or safety of the public or the safety of the Harbor District, its officers, employees, agents or any of its facilities.

Good cause to take any of the actions outlined in subsection A of this section shall include, but not be limited to:

- (1) The existence, creation or maintenance of an unreasonable fire hazard;
- (2) Dangerous weather or water conditions;
- (3) Sanitary protection of a facility;
- (4) Construction or repairs in the Harbor District;
- (5) Unsafe or unsuitable parking or road conditions;
- (6) Prevention of damage to the facility or any of its facilities; or
- (7) Any dangerous, unsafe, or unhealthful condition.

Failure to comply with any order pursuant to this section 1.420 shall constitute a crime punishable as a misdemeanor and subject the person, group or entity failing to comply with such order to expulsion from Harbor District property and facilities or portions thereof pursuant to section 1.720 of this code.

**1.600 – Severability**

If any article, section, subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid, unconstitutional or unenforceable, such decisions shall not affect the validity of the remaining portions of this chapter. It is hereby declared that this chapter and each article, section, subsection, paragraph, subparagraph, sentence, clause, phrase and portion thereof would have been adopted irrespective of the fact that one or more of such portions of this chapter be declared invalid, unconstitutional or unenforceable.

**1.720 – Removal from District Property**

A. Any persons engaged in any of the following activities may be removed from Harbor District property by order of any peace officer or any Harbor District employee designated by the Harbor Manager:

- (1) Any activity for which a permit is required by Harbor District ordinances or any governmental statute, regulation or directive if no permit has been issued for that activity;
- (2) Any activity that creates a threat to the health, safety or welfare of the public, District employees or the participants in that activity;
- (3) Any activity that violates Harbor District ordinances or any governmental statute, regulation or directive;
- (4) Failure or refusal to comply with a lawful written or oral order or directive from any peace officer or designated Harbor District employee;

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- (5) Making any threats to commit a violent act against any Harbor District employee or member of the public on Harbor District property;
  - (6) Being under the influence of alcohol or illegal drugs on Harbor District property;
  - (7) Consuming an alcoholic beverage in a public area on Harbor District property where such consumption is prohibited by District Ordinance;
  - (8) Parking or operating vehicles on Harbor District property in a manner that creates a threat to the health, safety or welfare of the public.
  - (9) Overnight camping on Harbor District property except in those areas designated by the Harbor District.
- B. A peace officer or any Harbor District employee designated by the Harbor Manager may issue an order requiring persons who have engaged in any of the activities specified in this Section 1.720 A, to remove themselves from Harbor District property. The order may be written or oral. There shall be three levels of orders:
- (1) An oral order shall require that the persons to whom it is directed shall immediately vacate Harbor District property and not reenter Harbor District property for seven (7) calendar days. This notice shall be given to those persons engaged in those activities identified in Section 1.720A that do not threaten the health, safety and welfare of the public or Harbor District employees and who have not been issued any prior orders under this Section 1720.
  - (2) A written 30-day order shall require that the persons to whom it is directed shall immediately vacate Harbor District property and not reenter Harbor District property for thirty (30) calendar days. This notice shall be issued to those persons engaged in those activities identified in Section 1.720A that unintentionally threaten the health, safety and welfare of the public or Harbor District employees or who have previously been issued two or less orders under section 1.720 B (1);
  - (3) A written 90-day order shall require that the persons to whom it is directed shall immediately vacate Harbor District property and not reenter Harbor District property for ninety (90) days. This notice shall be to those persons engaged in activities identified in Section 1.720A that intentionally threaten the health, safety, or welfare of the public or Harbor District employees or who have previously been issued an order under Section 1.720B(2) or this Section 1.720B(3).
- C. Any order issued under Section 1.720 may be appealed to the Harbor Manager. Such an appeal must be delivered to the Harbor Manager, in writing, within ten (10) calendar days after the order is issued. The appeal must state the basis for the appeal. Any supporting documentary evidence must be attached to the appeal. The Harbor Manager shall schedule a hearing within five (5) business days of receipt of the written appeal. At the hearing, the appellant may present testimony and argument in support of the appeal. The Harbor Manager shall issue a written decision on the appeal within five (5) business days after the close of the hearing.
- (1) The decision of the Harbor Manager may be appealed to the Harbor District Board of Commissioners. Such an appeal must be in writing and delivered to the Harbor District offices within ten (10) calendar days after the issuance of the Harbor Manager's written decision. The hearing on the appeal shall be held at the later of the next scheduled meeting of the Harbor District Board of Harbor Commissioners or forty (40) days after the District receives the appeal. At the hearing, the appellant may present testimony and argument in support of the appeal.

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- (2) Any order issued under this Section 1.720 shall remain in full force and effect during any appeal.
  
- D. The following acts shall constitute a crime punishable as a misdemeanor:
  - (1) Failure to immediately vacate Harbor District property after receiving an order from Harbor District employees or a peace officer; and
  - (2) Reentering Harbor District property prior to the time provided in any order issued under this section 1.720.