

MOSS LANDING HARBOR DISTRICT ORDINANCE CODE

Amended and Adopted by Ordinance No. 149, July 23, 1998
(Superseding Ordinance No. 143)
Amended by Ordinance No. 150, July 22, 1999
Amended by Ordinance No. 151, August 24, 2000
Amended by Ordinance Nos. 152, 153, November 30, 2000
Amended by Ordinance No. 154, December 28, 2000
Amended by Ordinance No. 155, February 22, 2001
Amended by Ordinance Nos. 156, 157, April 26, 2001
Amended by Ordinance No. 158, May 24, 2001
Amended by Ordinance No. 159, June 28, 2001
Amended by Ordinance No. 160, July 25, 2002
Amended by Ordinance No. 161, October 24, 2002
(Amended by Ordinance No. 161, May 22, 2003, which
was superseded by Ordinance 162, on October 23, 2003)
Amended by Ordinance No. 162, October 23, 2003
Amended by Ordinance No. 163, May 27, 2004
Amended by Ordinance No. 164, June 24, 2004
Amended by Ordinance No. 165, December 16, 2004
Amended by Ordinance No. 166, January 27, 2005
Amended by Ordinance Nos. 167, 168, February 24, 2005
Amended by Ordinance No. 169, April 28, 2005
Amended by Ordinance No. 170, June 30, 2005 (Adopted Out of Sequence)
Amended by Ordinance No. 171, May 26, 2005
Amended by Ordinance Nos. 172, 173, May 4, 2006
Amended by Ordinance Nos. 174, 175, June 22, 2006
Amended by Ordinance No. 176, January 25, 2007
Amended by Ordinance No. 177, June 28, 2007
Amended by Ordinance No. 178, September 27, 2007
Amended by Ordinance No. 179, October 25, 2007 (adopted out of sequence)
Amended by Ordinance No. 180, September 27, 2007
Amended by Ordinance No. 181, March 26, 2008
Amended by Ordinance No. 182, April 30, 2008
Amended by Ordinance Nos. 183, 184, 185, 186, July 23, 2008
Amended by Ordinance No. 187, December 11, 2008
Amended by Ordinance No. 188, January 28, 2009
Amended by Ordinance No. 189, May 27, 2009
Amended by Ordinance No. 190, February 24, 2010
Amended by Ordinance No. 191, June 3, 2010
Amended by Ordinance No. 192, June 8, 2011
Amended by Ordinance No. 193, May 30, 2012
Amended by Ordinance No. 194, November 29, 2012
Amended by Ordinance No. 195, January 16, 2013
Amended by Ordinance No. 196, May 29, 2013
Amended by Ordinance No. 197, May 28, 2014
Amended by Ordinance No. 198, March 25, 2015
Amended by Ordinance No. 199, May 27, 2015

**MOSS LANDING HARBOR DISTRICT
ORDINANCE CODE**

**AMENDED BY THE MOSS LANDING HARBOR DISTRICT
BOARD OF HARBOR COMMISSIONERS
May 27, 2015**

BOARD OF HARBOR COMMISSIONERS

**Russ Jeffries
Tony Leonardini
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Frank Gomes, Jr.
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GENERAL MANAGER/HARBOR MASTER

Linda G. McIntyre, Esq.

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ARTICLE I
GENERAL PROVISIONS

CHAPTER 1 - ENACTMENT, APPLICABILITY, AMENDMENT

1.010 - Enactment

The rules and regulations contained in this Code shall constitute and be identified as "The Moss Landing Harbor District Ordinance Code," hereafter cited as "this Code."

1.020 - Authority for Code

The provisions of this Code are adopted pursuant to the authority vested in the Moss Landing Harbor District (hereafter referred to as the "District") by the State of California, including but not limited to the California State Constitution, the Harbors and Navigation Code, the Government Code, the Public Resources Code, and the California Code of Regulations, and all other applicable state and federal laws.

1.030 - Applicability of Code

- A) **Affected area.** The provisions of this Code apply to all areas of water, land and facilities under the ownership and/or jurisdiction of the Moss Landing Harbor District, as such jurisdiction is defined by California state law.
- B) **General rules for use of District property.** All persons using District property, waters, lands, or facilities shall observe and comply with the provisions this Code and all applicable provisions of California State Law.

1.040 - Responsibility for Administration

This Code shall be administered by the Board of Harbor Commissioners of the District (hereafter referred to as the "Board"), the General Manager, and all designees of the General Manager.

1.050 - Interference Prohibited

It shall be unlawful and a violation of this Code for any person to willfully resist, delay, or obstruct any District employee in the process of lawfully enforcing the provisions of this Code.

1.100 - Exceptions to Code Provisions

Exceptions to any regulation, rate, or charge provided by this Code may be granted according to the following procedures:

- A) **Application for exception.** Exceptions to this Code shall be requested in writing and shall be accompanied by the fee established by Chapter 20 of this Code (Fees and Charges), including explanation of why the applicant believes that the exception should be granted.
- B) **Procedure for granting an exception.** All exception requests shall be first considered by the General Manager, who may approve, disapprove, or refer the request to the Board for action. Approval of any exception request shall be in writing, and shall be granted only where the granting authority first determines that the applicable regulation is unnecessary or ineffective in the particular case, and/or that the collection of all or part of a rate or charge is inappropriate or inapplicable, because of specific circumstances described in the exception request. Any approval by the General Manager shall be reported to the Board in writing at their next regular meeting.

- C) **Time limits, extensions.** Any approved exception shall be effective for a maximum of one calendar year from the date of issuance. An exception may be considered for renewal only upon written application to the Board.

1.200 - Amendments to Ordinance Code

- A) **Procedure for amendments.** This Code may be amended whenever the Board determines that public necessity, convenience, or welfare requires. Amendments may be initiated by the Board or on the basis of a request by the public; or may be requested by the General Manager. Amendments to this Code shall be initiated and processed in compliance with the Harbors and Navigation Code, with a public hearing conducted as set forth in Chapter 24 of this Code (Hearings and Appeals). Amendments may also require review in compliance with the requirements of the California Environmental Quality Act (CEQA), and Chapter 22 of this Code (Environmental Review Procedures).
- B) **Distribution of completed amendments.** The General Manager shall provide a true copy of any amendments to this Code to the following persons and agencies within 40 days of the enactment of such amendments:
- 1) Each Commissioner of the District;
 - 2) The Attorney General of the State of California;
 - 3) The Monterey County Counsel;
 - 4) The Monterey County District Attorney;
 - 5) The Monterey County Law Library;
 - 6) The Monterey County Sheriff;
 - 7) Each Monterey County Municipal Court Judge;
 - 8) Each Harbor District employee; and
 - 9) All persons who have requested receipt of Code amendments, and have paid the fee for this service established by the Board.

1.300 - District Not Liable for Loss and Damage

The Harbor District, employees, and Board shall not be liable for loss or damage to any vessel or other property resulting from any cause.

1.400 - Severability of Provisions

If any chapter, section, subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this Code is for any reason held to be invalid, unconstitutional or unenforceable, such decisions shall not affect the validity of the remaining portions of this Code. It is hereby declared that this Code and each chapter, 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 Code be declared invalid, unconstitutional or unenforceable.

CHAPTER 2 - DEFINITIONS, INTERPRETATION

2.010 - Purpose

This chapter determines how the provisions of this Code will be interpreted by those responsible for its administration, and defines the terms and phrases used in this Code that are technical or specialized, or that may not reflect common usage.

2.100 - Rules of Interpretation

The General 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 of language.** When used in this Code, the words "shall" and "will" are 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 this Code 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 calendar days except where this Code otherwise uses the terms "business days" or "working 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.
- D) **Conflicting provisions.** In any case where two or more provisions of this Code may appear to conflict in terms of their specific requirements or applicability, the most restrictive shall prevail.
- E) **Waiver of fees.** The General Manager may waive fees as follows:
 - 1) When a public purpose would be served by waiving fees otherwise required by this code, up to \$500, provided that there is a legally binding duty on the recipient of the waiver to further the public purpose.
 - 2) After paying the first two nights of transient fees in accordance with the rate and fee schedule, first-time transient vessels visiting Moss Landing Harbor will receive a waiver of one night's transient fee not to exceed \$100.00.
 - 3) If an existing berthholder refers a new berthholder to Moss Landing Harbor and the new berthholder pays fees in full in accordance with the rate and fee schedule and remains for a period of 6 (six) months, at the end of the 6 month period, the referring berthholder will receive a waiver of one month's berthing fee (excluding any amenity or any other fees) for the referring berthholder's vessel, not to exceed \$500.00, provided both the new berthholder and the referring berthholder's accounts are current.
 - 4) A new berthholder entering into a contract and remaining for a full year with fees fully paid for eleven months, and whose account is current will receive a waiver of the twelfth month's slip fee, (excluding any amenity or other fees) not to exceed \$500.00. For

purposes of this Paragraph 4, "new berthholder" includes the transfer of a berth in connection with a bona fide sale of a vessel currently occupying a berth in the Harbor. Sales made for the sole purpose of receiving benefits under this Section are not bona fide sales as determined by the General Manager. Examples include, but are not limited to transfers from one family member to another, from an individual to a corporation in which the individual has an interest directly or indirectly, from a corporation to an individual who has an interest directly or indirectly in the corporation.

5) New Berthholder. For purposes of paragraphs 3 & 4 a new berthholder is defined as a vessel, excluding a transient vessel, which has not occupied a slip in Moss Landing Harbor at any time during the past 12 months.

6) It is the intent of this Section to increase vessel occupancy in the Harbor and to retain existing berthholders.

2.200 - Definitions

For the purpose of applying the provisions of this ordinance, the terms shall be construed and interpreted as they are defined here unless otherwise apparent from the context.

The following definitions are organized in alphabetical order:

Berth. The term "berth" includes docks, slips, wharves, piers and mooring facilities. Berths assigned on a day-to-day basis are "transient" berths. Berths assigned on a month-to-month basis are "temporary" berths. Berths assigned in the expectation that the assignee will remain for an extended period are "assigned" berths. An assigned berth is an assignment to a berth granted by the District and giving the assignee the right to the preferential use of the berth described in the permit.

Board. The Board of Harbor Commissioners of the Moss Landing Harbor District.

Boat length. For the purposes of applying the fees or charges established by this Code, the length of a vessel shall be measured from the farthest point aft to the farthest point forward, including all permanent structures.

Commercial fishing vessel. A commercial fishing vessel engaged in fishing as its primary commercial activity. A commercial fishing vessel must be licensed to participate in a US Fisheries or Department of Fish and Game regulated saltwater fishery, and must demonstrate revenues of at least \$5,000 for each of three consecutive years and then, each year thereafter at the discretion of the General Manager. Proof of revenues shall be in the form of Fish and Game landing records or IRS Schedule C. Proof must be supplied under penalty of perjury. (This definition will apply only to Sections 6.022 and 6.110.)

Commercial vessel. A commercial vessel is any vessel, other than a commercial fishing vessel, which is used primarily as a commercial enterprise, and must demonstrate revenues of at least \$5,000 for each of three consecutive years and thence, each year thereafter at the discretion of the General Manager. Proof of revenues shall be in the form of IRS Schedule C or audited set of business financials. Proof must be supplied under penalty of perjury. Vessels used primarily as offices or residences do not qualify as a commercial vessel. Vessels classed or documented as research vessels qualify as a commercial vessel providing such vessel can demonstrate revenues pursuant to this section.

District. The Moss Landing Harbor District, in Monterey County, California.

District permit. The written authorization required by this Code prior to a person conducting specified activities on water, land, or facilities under the District's jurisdiction. Except as expressly exempted by this Code, activities requiring a district permit include all activities described in Section 26.010.

Employee. An employee of the Moss Landing Harbor District.

Environmental Coordinator. The General Manager, or the environmental consultant designated by the General Manager to perform the duties specified in Chapter 22 of this Code (Environmental Review Procedures).

Harbor or harbor area. All waters, submerged lands and tidelands; and upland areas adjacent thereto, under the possession, operation, or control of the Board. (See Chapter 1190, Statutes of 1947, as amended by Chapter 131, Statutes of 1967.)

Live-aboard vessel. Any recreational vessel having an assigned berth and used or intended for use as a residence or overnight accommodation in the Harbor between the hours of 10:00 PM and 5:00 AM for more than two days out of seven without prior written authorization from the Harbor Master. A vessel holding a "temporary" berthing permit cannot be a live-aboard vessel. A vessel holding a "transient" berthing permit is not considered to be a live-aboard vessel. A Commercial and/or Commercial Fishing Vessel providing accommodation space for master and crew is not considered to be a live-aboard vessel. No individual will be allowed to stay more than 2 cumulative days out of 7 consecutive days on any vessel or vessels in the Harbor without a Live-aboard Permit or prior written authorization from the Harbor Master.

Manager. The General Manager of the Moss Landing Harbor District as provided for and defined in Chapter 3 of this Code, including any employees of the District designated by the General Manager to perform duties authorized or directed by this Code.

Moss Landing Harbor. See "Harbor or harbor area."

Operable. A vessel meeting one of the following criteria: 1) a vessel making an excursion under its own power, either motor or sail, from its berth to the one-mile buoy, and back, or other excursion as specified by the Harbormaster, or; 2) a vessel having undergone an inspection by the Harbormaster to confirm ahead and astern propulsion, full and proper rudder operation, an approved marine sanitation device, if fitted; plus a valid U.S. Coast Guard Auxiliary safety inspection decal, or; 3) certification of operability and seaworthiness by a marine surveyor permitted to do business in the Moss Landing Harbor District, said certification to be obtained at the sole expense of the vessel owner, except as provided in Section 6.120(B)(2).

Peddler. Any seller of services or supplies doing business on District's lands, waters, docks, piers, wharves or other properties, that does not maintain a place of business on said lands, waters, docks, piers, wharves or other properties with the following exceptions: A licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants, or; a commercial fisherman who catches seafood and sells only the seafood caught by him.

Person. Any individual, firm, co-partnership, corporation, company, association; city, county, state, or district, or agency thereof; and includes any trustee, receiver, assignee, or other similar representative thereof.

Pleasure craft or sport vessel. Any vessel, regardless of size, not engaged in marine commerce and not possessing a commercial fishing, charter, or passenger transportation license. Any vessel not a “commercial vessel” or “commercial fishing vessel”.

Sightseeing boat. A charter boat that transports passengers on regularly scheduled sightseeing or pleasure trips.

Stray current corrosion. The corrosion that results when a current from a battery or other external electrical source (AC or DC) causes a metal, in contact with an electrolyte (e.g., seawater), to become anodic with respect to another metal in contact with the same electrolyte.

Vessel. All types of watercraft used, or capable of being used as a means of transportation on water.

CHAPTER 3 - ADMINISTRATION AND PERSONNEL

3.010 – General Manager

The General Manager is the Chief Executive Officer of the District and for the Board of Harbor Commissioners. It shall be the duty of the General Manager to:

- A) Carry out the orders of the Board and to enforce all regulations and ordinances of the District and state or federal laws affecting the navigable waters of the Harbor. The General Manager is the Harbormaster for Moss Landing Harbor.
- B) Report promptly to the proper authorities any violation of the laws of the United States for the protection of navigation and the preservation of navigable waters, or any violation of state or local laws or ordinances.
- C) Employ such employees as the General Manager deems necessary for the proper administration and operation of the District, in accordance with the District's personnel policies. The General Manager is the Personnel Officer of the District.
- D) Administer and supervise the public works projects of the District, and to plan the short, medium and long-term work program for the District. The General Manager is the Contracting Officer of the District.
- E) Administer and supervise the purchasing system of the District in accordance with approved budgets and policies. The General Manager is the Purchasing Agent of the District.
- F) Prepare and manage the District budget.

3.020 - Additional Enforcement Authority

The Monterey County Sheriff, or any duly appointed and acting peace officer shall have full authority in the enforcement of all laws, ordinances, and regulations affecting the use of District facilities, including the power of arrest for the violation of the provisions of such laws, ordinances, and regulations. All orders and instructions given by peace officers in the performance of their duties in compliance with this section shall have the same force as if issued by the General Manager.

3.100 - Harbor Commissioners**3.110 – Compensation**

Each commissioner shall, in accordance with §6060 of the Harbors and Navigation Code, receive a salary of \$100.00 for each meeting attended of the Board of Harbor Commissioners or meeting attended of a committee of such board, or any other such meeting attended that has been previously authorized by a majority of the board acting at a meeting of said board noticed in accordance with the Ralph M. Brown Act; to a maximum of \$600.00 per month authorized by §6060 of the Harbors and Navigation Code. In addition, each commissioner shall be entitled to actual and necessary expenses incurred in the performance of their duties.

3.120 – Meetings

The Board of Harbor Commissioners shall meet at 7:00 p.m. on the fourth Wednesday of each month at the District's offices. Additional meetings may be scheduled at the discretion of the Board.

3.200 – Conflict of Interest**3.210 – Conflict of Interest Code**

The Board of Harbor Commissioners hereby adopts the Sample Conflict of Interest Code contained in FPPC regulation 18730 (2 Cal. Code of Regs. Section 18730) as its own in order to comply with the provisions of the Political Reform Act of 1974, Government Code §81000, et seq., or other statutes pertaining to conflicts of interest.

In accordance with said Conflict of Interest Code the following positions with the Moss Landing Harbor District are designated herein as “designated positions”, to wit: Members of the Board of Harbor Commissioners, General Manager, regularly retained legal counsel, regularly retained accountant, and each and every employee that may be named by resolution adopted by the Board of Harbor Commissioners. Each person elected or appointed to one of these positions is a designated employee and is deemed to make or participate in the making of decisions which may foreseeable have a material effect on a financial interest of the District.

3.220 – Acquisition or Use of District Property

Officers or employees of the District shall not use District property for their own personal benefit or for any purpose but a public one or for District business. In addition to other sanctions that may be imposed, whether civil or criminal in nature, the District may demand for, and such officer or employee shall make, full restitution of the fair rental value of District property so used in any manner other than as provided for herein, together with any and all damages that may have arisen from any misuse.

Additionally, District employees may not:

- A) purchase any surplus property from the District except by public auction, duly authorized by the Board of Harbor Commissioners and publicly noticed at least two weeks prior to its occurrence, or
- B) accept gifts from the users of District facilities, or
- C) present gifts from the District unless the Board of Harbor Commissioners first determines that such gift serves a public purpose.

ARTICLE II
HARBOR OPERATIONS, USE OF DISTRICT PROPERTY

CHAPTER 4 - GENERAL REGULATIONS FOR ACTIVITIES WITHIN THE DISTRICT

4.010 - Damage to District Property

- A) **Willful and malicious damage prohibited.** It shall be unlawful for any person to willfully and maliciously destroy, damage, deface or interfere with any property under the jurisdiction of the District.
- B) **Liability for damage.** Every person and every vessel responsible for damage to any District property shall be held liable for and charged with the cost of replacing or repairing the property.
- C) **Report of damage required.** In the event any damage is done to any District property, the General Manager shall be provided a full report on the matter, including but not limited to the date and hour the damage occurred, the names and addresses or descriptions of witnesses and other persons and/or vessels involved in the damage, as well as all pertinent facts and other information that may be available. The required report shall be provided the General Manager by:
- 1) Any person responsible for or connected with the damage;
 - 2) Any person to whom the damaged District property is assigned or leased, or by whom it is being used; and
 - 3) The Master, owner, operator or agent of any vessel, vehicle or other instrumentality involved in the damage.

4.020 - Peddling Prohibited Without Permit

It shall be unlawful for any person to peddle or sell any goods, wares, merchandise or services upon any berthed vessel, or any dock, roadway, or other lands under District jurisdiction, without first obtaining an Itinerant Vendor's License from the County of Monterey, a Monterey County Health Department Permit to sell food if applicable, and a peddler's permit from the District. The fee for a peddler's permit shall be in the amount established under Section 20.100. This section does not apply to the sale of fish by a commercial fisherman to a buyer licensed as such by the California Department of Fish and Game.

4.030 - Dock Regulations

- A) **Attachments to docks.** No person shall attach any object or apply any substance to any District property without the prior written approval of the District.
- B) **Weight limits.** The weight limit for cargo placed on any dock or pier shall be 300 pounds per square foot unless otherwise stipulated in a berthing permit (see Section 6.022).

4.040 - Rental Businesses, Permit Required

No vessels shall be rented within the Harbor without a permit from the District. Permit fees shall be in the amount established under Section 20.100.

4.060 - Use of Launch Ramps, Permit Required

Permit required. Persons using the District's launch ramps shall have a Launch Ramp Permit. The permit fee shall be in the amount established under Section 20.100. (See Section 10.100.A (motor vehicles on launch ramps) for regulations governing the use of the launch ramp.)

4.070 - Parking, Permit Required

- A) **Parking permit.** Persons parking a vehicle within the posted areas in the Harbor District shall have a parking permit. Permit fees shall be in the amount established under Section 20.100.
- B) **Civil penalty for improperly parked vehicle.** The District, or other authorized agency, may impose a civil penalty on the owner of a vehicle within the Harbor District for the violation of any regulation governing the standing or parking of a vehicle under Federal, State or District law in accordance with the procedures in Section 40200 et seq. of the California Vehicle Code. (See Section 10.110 for District parking regulations.)

CHAPTER 6 -BERTHING REGULATIONS AND PERMIT REQUIREMENTS

6.010 - District Approval Required for Use of Berths

- A) **Locations designated by District.** All vessels in the Harbor shall berth or moor in the location designated by the Harbormaster. The anchoring of vessels in the Harbor is prohibited except in an emergency.
- B) **Method of docking.** All vessels shall be tied up in such a manner to safeguard port facilities and other vessels from collision or other damage, and to not obstruct navigation by other vessels, and as further provided by Section 6.100 (Berthing Regulations).

6.020 - Berthing Permit Requirements

No vessel shall occupy a District berth or tie up at a District dock for any length of time unless the owner first obtains a berthing permit from the Harbormaster. Exceptions of up to four hours may be granted by the Harbormaster.

6.022 - Berthing Permit Applications and Approval

Berthing permits shall be applied for, issued, and maintained as provided by this section.

- A) **Application filing.** Application for a berthing permit shall be made on the forms provided by the District and shall be accompanied by the fees required by Chapter 20.
- 1) **Status of Applicant.** Every non-natural person applicant shall be required to provide an acceptable personal guarantee of performance of the terms of any permit that may be issued by the District.
 - 2) **Applicant Name.** The berthing applicant and the registered owner of the vessel must be the same person or entity.
- B) **Permit issuance.** Berthing permits shall be issued as follows:
- 1) **Assigned berth permits.** The District may issue a permit for an assigned berth after the applicant has been placed on a waiting list in accordance with Section 6.050, provided that a vacant, unassigned berth is available. If a berth is not immediately available, the applicant may be placed on the assigned berth waiting list (Section 6.050), and may be directed to a temporary berth as provided by subsection (B)2, following.

Assigned berth permits shall be granted in the order of priority determined by whether the vessel is commercial or recreational and the position of the vessel owner on the applicable waiting list, as provided by Section 6.050. When an owner is eligible for an assigned berth permit, the owner shall obtain and exercise the permit as follows:

- a) **Time for obtaining permit.** When the Harbormaster notifies an applicant that an assigned berth is available, the applicant shall complete the application for an assigned berth. The completed application shall be returned to the Harbormaster for approval and must be accompanied by either the annual rental fee or the deposit set forth in Chapter 20, Section 20.100 C. A commercial vessel owner shall also submit documentation of commercial operations as defined by Section 2.200 (Definitions - "Commercial Vessel").

- b) **Time for occupying berth.** An applicant shall place a properly sized vessel in their assigned berth within 180 days from acceptance of the berth, or the berth will be forfeited and the District shall be free to reassign the berth.
 - c) **Refusal of assigned berth.** An applicant may refuse a berth when offered; however, the owner will be rotated to the bottom of the list if the owner does not accept the assigned berth within the time set forth in the offer.
- 2) **Temporary berth assignment.** If an applicant has requested a temporary berth, or has requested an assigned berth and none are available, the Harbormaster may assign a temporary berth as provided by Section 6.060 (District Rental of Vacant Berths).
 - 3) **Permit time limit.** Assigned berth permits shall be issued for the period stated in the permit; provided that all assigned berth permits shall expire and become void upon the sale of the vessel for which the owner obtained the permit, except where the permittee replaces the vessel with another that they own or the assigned berth is transferred to the new buyer pursuant to Section 6.024.

C) Requirements for issued permits:

- 1) **Changes of name or address.** The owner of each registered vessel shall promptly notify the District in writing of any change of the name, address and telephone number of the vessel moored under an approved permit, and of any change in ownership or the owner's address.
- 2) **Rental fees.** Berth rental fees shall be paid as required by Chapter 20 of this Code.
- 3) **Substitution of vessel.** An owner may sell a vessel and substitute another while retaining the same berthing permit only when the new vessel is of a size appropriate to the slip and has the same registered owner, and the Harbormaster is notified, and approves of the substitution.
- 4) **Commercial vessels - Annual verification.** Every owner who was granted an assigned berth on the basis of having a commercial vessel may be required to provide documentation to the satisfaction of the Harbormaster that the vessel remains commercial and operable (see Section 2.200 - Definitions).
- 5) **Permit revocation.** Berthing permits may be revoked by the District as provided by Section 6.028.

6.024 - Transfer of Berthing Permits

Berthing permits shall be transferred only as provided by this section.

- A) **Filing of request.** Any permittee wishing to transfer a permit must first file a written request and obtain District approval for the transfer.
 - 1) **Time of request.** A request for transfer of an assigned berth permit shall not be considered by the District unless one year has elapsed since the issuance of the permit, except in the case of a transfer to heirs (see subsection (B)1 below).
 - 2) **Method of filing.** The request shall be filed with the Harbormaster, and shall include the name of the transferee, circumstances requiring the transfer, and any other information required by the Harbormaster.

- B) **Types of transfers allowed.** Assigned berth permits may be transferred only as follows:
- 1) **Transfer to heirs.** A permit may be transferred to the estate of a permittee upon the death of the permittee.
 - 2) **Transfer upon sale of vessel.** The transfer of an assigned berth permit to a vessel purchaser when a vessel is sold is allowed, however all conditions otherwise required for an assigned berth must be met by the vessel purchaser.
 - 3) **Transfers to/from non-Natural Persons.** Transfers to or from a non-natural person by an existing permittee is allowed, provided that any non-natural person transferee is required to provide an acceptable personal guarantee of performance of the terms of the applicable permit(s) by a natural person, and provided all conditions otherwise required for an assigned berth must be met by the vessel transferee.
- C) **Fees due before completion of transfer.** No transfer of an assigned berth permit shall occur until all past due and current charges due to the District, including but not limited to past due and current berth rental fees are paid in full.
- D) **Cancellation of transfer by District.** The giving of false information in an application for berthing or an application to transfer a berth permit shall be a misdemeanor. If at any time the District discovers that any misstatement or misrepresentation was made by any party requesting a permit transfer pursuant to this section, the District may, upon notification and hearing, revoke the assigned berth permit in addition to any other penalties provided at law.
- E) **Leases without transfer.** A permittee may lease their boat provided, however, that the permittee remains liable for all fees and rates charged for the berth. The permittee must, upon request, make all documentation of lease arrangements available to the District.

6.026 - Exchange of Berths

Two assigned berth permittees may exchange their assigned berths with the approval of the Harbormaster upon payment of the administrative fee established by the Board. When an exchange is approved, the Harbormaster shall issue modified permits to each owner documenting their new berth assignments. Approval shall not be granted by the Harbormaster unless and until all fees currently owed to the District are paid in full.

6.028 - Termination or Revocation of Berthing Permit and Removal of Vessel

Berthing permits may be terminated by the owner or revoked by the District as provided by this section.

- A) **Termination by owner.** Berthing permits may be terminated by an owner by giving notice to the District on a Notice of Termination form provided by the District. Fees for berths will accumulate through and including the effective date of the Notice or the day that the Notice is received, whichever is later.
- B) **Revocation by District.** Berthing permits may be revoked by the District as provided below:
 - 1) **Causes for revocation.** A berthing permit may be revoked under any of the following circumstances:

- a) **Vessel Condition.** The vessel using the permit is determined by the District to be unsafe, dilapidated, stolen or abandoned as provided in Harbors and Navigation Code Sections 522, 523, 525.
 - b) **Failure to pay berthing permit fees.** The owner fails to pay the monthly berthing permit fees required by Chapter 20 of this Code for more than 60 days.
 - c) **Failure to comply with Code requirements.** The vessel or its operation fails to comply with any applicable provision of this Code.
- 2) **Procedure for removal:**
- a) **Notice.** The District shall provide written Notice of Termination to the owner in person or by Certified or Registered Mail, and by posting on the vessel if the vessel is in the Harbor.
 - b) **Revocation of permit.** The Harbormaster may revoke a berthing permit within 30 days after notice is given as provided in subsection (B.2.a.) above.
 - c) **Failure to remove.** If the owner fails to remove the vessel, the District may move the vessel to another location with all expense and risk of loss or damage being the responsibility of the owner. In the event of such removal the owner shall be liable to District for the prevailing berth rental and other fees customarily charged at the facility where the vessel is moved.

6.050 - Assigned Berth Waiting Lists

Assigned berth waiting lists shall be established as provided in this section for persons wishing to obtain an assigned berth in the Harbor.

- A) **Establishment of waiting lists and issuance of permits.** The Harbormaster shall establish and maintain separate waiting lists for each size of berth maintained by the District. Each list shall have three priority groups of owners waiting for assigned berths:
- 1) Owners of commercial fishing vessels;
 - 2) Owners of other commercial vessels;
 - 3) Owners of pleasure craft.

When assigned berths become available, the Harbormaster shall first issue permits to owners of commercial fishing vessels; then to owners of other commercial vessels when there are no commercial fishing vessels on the list; and finally to the owners of pleasure craft when there are no more owners of commercial vessels on the list.

All permits shall be issued to vessel owners in the same order as their names appear on the waiting lists.

The waiting list applicant and the registered owner of the vessel must be the same person or entity.

- B) **Placement on waiting list.** All assigned berths are issued from waiting lists. An applicant for an assigned berth permit shall be placed on the waiting list for the requested berth size, in the applicable priority group established by subsection (A) above, and in the same order as their assigned berth permit application was received by the District, and pay the applicable waiting list fee (see Section 20.100(c)).

- C) **Rules for remaining on waiting list.** Applicants on waiting lists shall comply with the following requirements:
- 1) **Annual fee required.** Applicants on the waiting list shall pay the District the waiting list fee established by Chapter 20 of this Code (Fees and Charges). The fee shall be due on January 1st of each year and shall be paid no later than January 10th. Failure to pay the annual fee when due will result in the applicant's name being removed from the waiting list.
 - 2) The aforementioned \$75 assigned slip wait list application fee shall be waived in the event slips in the size category being applied for are available immediately. Notwithstanding the foregoing fee waiver, the applicant will be required to complete the wait list application for administrative and documentary tracking purposes.
 - 3) **Commercial vessels and commercial fishing vessels.** Applicants with commercial vessels or commercial fishing vessels on the waiting list shall be subject to the following additional requirements:
 - a) Prior to the assignment of a berth to a commercial vessel or a commercial fishing vessel, the applicant shall present to the District documentation showing that a vessel meets the definition in Section 2.200 for a vessel of its classification.
 - b) If the applicant does not possess the required receipts and other documentation because the commercial vessel is a newly created business or the commercial fishing vessel is newly licensed, he/she will receive an assigned berth on a temporary basis and will be given 12 months to provide the receipts.
 - c) While on a temporary basis the applicant will pay all temporary fees; provided that if the applicant furnishes the required receipts at any time during the 12 months, he/she will then be given a credit for temporary fees so paid, will cease paying the temporary charges and will begin paying the appropriate assigned berth rental fee established by Chapter 20 of this Code (Fees and Charges).
 - d) If after 12 months the applicant cannot produce the required receipts, he/she will lose the assigned berth, be removed from the waiting list, must reapply for placement on that list, and shall be assigned a sign-up date based on the date the re-application is received by the District.
 - 4) **District notification of changes required.** While on a waiting list, all applicants shall promptly notify the District of any change in their mailing address or telephone number.
- D) **Updating of waiting lists.** The District will update and purge the waiting lists annually in the first week in December by mailing to each person on the waiting lists a request to verify their continued interest in obtaining a permit along with a statement of fees owing for the next year. Any person who fails to return the requested verification on or before the 10th of January shall be removed from the list, and the District shall mail a notice that their name has been removed from the list. Removal from a waiting list may be appealed as provided in Chapter 24 (Hearings and Appeals) within 30 days after such notice.
- E) The District will maintain a list of individuals wishing to obtain a liveaboard permit; however, such permits will only be issued to individuals who have been issued an assigned

slip and who are otherwise in compliance with liveaboard conditions set forth in this Code and in the application for liveaboard permit. Liveaboard permits will be offered to those on the liveaboard wait list in the order their wait-list application was received.

6.060 - District Rental of Vacant Berths

When an assigned berth is vacant because the permittee's vessel is absent from the Harbor, the District may re-rent the berth on a temporary basis, provided that any vessel temporarily occupying an assigned berth will be moved by the District when the assigned vessel returns. A vessel temporarily assigned to a re-rented berth will be moved by the District before the assigned vessel returns, weather permitting, if the returning vessel gives the Harbormaster sufficient notice to permit the temporary vessel to be reasonably moved during normal working hours.

6.100 - Berthing Regulations

No person shall make any vessel fast to any dock, or moor immediately in front of a dock, or to another vessel, or to any vessel in a group of vessels one of which is made fast, without the approval of the Harbormaster, and in compliance with the following requirements. Violation of any of the provisions of this section shall be cause for the District to revoke a berthing permit and/or issue a citation.

- A) **Attachment of lines to District property.** No person shall make fast any rope or cable to any dock or other District property, except to the piles, bits, rings or cleats provided for that purpose.
- B) **Posting of Signs.** No person shall affix a sign to any District dock, float, wharf or other structure without the written authorization of the Harbormaster.
- C) **Display of name or registration number.** A name or registration number shall be displayed on every vessel and/or its covering using a berth or mooring. The name or number must be clear, legible and unobstructed at all times. The state registration validation decal shall not be expired.
- D) **District replacement of lines.** All vessel owners shall keep their vessels safely berthed or moored with adequate and sufficient mooring lines as determined by the Harbormaster. The District reserves the right to renew or replace any mooring lines found deficient or inadequate and to charge the owner of the vessel the costs of such renewal or replacement.
- E) **Floatable fenders required.** All vessels moored in the Harbor shall have attached floatable fenders appropriate, in the judgment of the Harbormaster, to the size and displacement of the vessel in order to prevent damage to vessel, other vessels, harbor facilities, persons or property of any kind. Non-floatable fenders are prohibited. Tires shall not be used as fenders. The use of properly rigged fender boards is encouraged.
- F) **Houseboats, time limit.** Houseboats are permitted in the harbor on a transient basis only and in no case shall remain longer than 30 days.
- G) **Length of vessel.** A berthed or moored vessel shall be no more than 10 percent shorter or longer than the slip unless authorized by the Harbormaster.
- H) **Making fast to dock.** No person shall make any vessel fast to any dock, slip, wharf, pier or mooring except with such lines and in such manner as approved by the Harbormaster.

- I) **Mooring to opposite dock.** No person shall lead any mooring line from any vessel lying at a dock across the slip to the opposite dock, without first obtaining permission from the Harbormaster.
- J) **Pedestrian hazards.** No unattended lines, hoses, electrical cords, or other materials shall be laid across any walkway so as to create an obvious pedestrian tripping hazard.
- K) **Required movement of vessels.** The District may require that any vessel be moved to a mooring or berth to which it has been assigned or reassigned at any time, as provided by Section 8.110 (Movement of Vessels in the Harbor).
- L) **Rafting.** Vessels shall not raft against another vessel unless authorized by the Harbormaster and the Master, Owner or Operator of the other vessel. In cases where the Harbormaster has authorized a vessel to raft the Master, Owner or Operator of the rafting vessel shall assure that the safety and integrity of the mooring does not rely solely on the mooring lines of the other vessel and that adequate and proper fendering is used to prevent damage to either vessel, harbor facilities, persons or property of any kind. The owners of every vessel rafting across the end of any pier or dock, or whose stern or bow extends beyond the edge or end of any berth, and every vessel lying alongside another berthed vessel shall, while occupying such a position, be responsible for any and all damage to itself or to any other vessel, any harbor facilities or to any persons or property of any kind resulting from occupying such position.

M) Stray current corrosion and connecting cords:

- 1) **Stray current prohibited.** No vessel shall be operated or maintained so as to transmit stray current. Stray currents may be tested by measuring the resistance between the dock end of the shore power cord and the water adjacent to the vessel, as follows: The shore power cord shall be connected in the normal manner to the vessel, but shall be disconnected from the power pedestal. The shore power switch aboard the vessel shall be in the ON position and at least one device aboard the vessel shall be connected and its operating switch shall be in the ON position. (1) – An ohmmeter shall be used at the dock end of the shore power cord to measure the resistance between the BLACK (HOT) lead and the water adjacent to the vessel. The resistance must be AT LEAST 100,000 OHMS. (2) – The resistance at the WHITE (NEUTRAL) lead shall then be tested in a similar manner. The resistance must be AT LEAST 100,000 OHMS. (3) – The resistance at the GREEN (GROUND) lead shall then be tested in a similar manner. The resistance MUST NOT EXCEED 10 OHMS. All three conditions must be met for the vessel to safely utilize shore power. Vessels not meeting all three conditions should be disconnected from the shore power and correct the vessel's electrical problem.
- 2) **Correction of stray current problems.** If a vessel is found to be producing stray current, the Manager shall give notice to the owner and a reasonable amount of time provided to correct the problem, not to exceed 10 days. The Harbormaster shall have the authority to disconnect the vessel from shore power immediately if the level of stray current being produced poses an immediate threat to personal safety or will cause the rapid corrosion of the vessel and/or its neighboring vessels or structures. If the vessel is unplugged upon discovery of the stray current, every effort will be made to notify the vessel owner as to the action taken. The District shall, however, assume no liability for any losses or damage suffered from the denial of shore power to a vessel.

- 3) **Revocation of permit.** If the vessel is reconnected by the owner without being fixed, for any other purpose than stray current testing, the District may revoke the assigned berth permit.
 - 4) **Connecting cord requirements.** Shore power cords shall be of the three-wire type including a functioning ground wire with insulation types SO, ST, or STO and with a wire thickness in accordance with the National Electric Cord Standards. Minimum wire size shall not be under 10 gauge. Cords that are found to be a significant hazard to safety will be unplugged immediately. Shore power cords shall be in accordance with the National Electrical Code, 1996 edition, incorporated herein by reference, and applicable standards of the California Department of Boating and Waterways.
- N) **Electrical Service to Vessels.** The District reserves the right to disconnect the electrical service to any vessel at any time, however, will endeavor to notify the owner when this occurs. The reasons that the District may disconnect electrical service may be, but are not limited to, non-payment of berthing fees, stray currents, excessive power load and other reasons necessary for safe and efficient harbor operations.
- O) **Prohibited Discharges – Penalty.** 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 District that are otherwise prohibited by laws, regulations or ordinances of the United States, the State of California, or the County of Monterey.

6.110 – Live Aboard Vessels and Persons Living Aboard

As provided by this section, the District may allow a limited number of recreational vessels to be used for temporary residential purposes incidental to their primary recreational use, to provide for improved security within the Harbor. No person shall live aboard any vessel in the Harbor without a permit to live aboard and payment of all applicable fees. No person shall live aboard any vessel in the Moro Cojo Slough or Elkhorn Slough for any period of time. Anyone in violation of this section shall, in addition to any other penalties provided by this Code, be subject to forfeiture of their berthing permit and other privileges at the District.

- A) **Applicability.** The requirements of this section apply to recreational vessels being used or intended for use as a place of temporary residence and meeting the definition of live-aboard vessel contained in Section 2.200, and to any other person who lives aboard a commercial vessel or commercial fishing vessel while in the harbor more than 2 days out of 7 consecutive days. No individual will be allowed to stay more than 2 cumulative days out of 7 consecutive days on any vessel or vessels in the Harbor without a Live-aboard Permit or prior written authorization from the Harbormaster.
- B) **Application requirements.** All persons desiring to live aboard a vessel in the Harbor shall file with the District an application on the form required by the Harbormaster, which shall be accompanied by the fee required by Chapter 20 for the period for which live-aboard authorization is requested.
- C) **Limitation on number of live-aboard vessels.** The District will allow a maximum of 60 vessels meeting the live-aboard vessel definition contained in Section 2.200. The District shall not restrict the number of persons living aboard commercial vessels or commercial fishing vessels in the harbor provided such persons comply with the ordinances of the District and any other rules and regulations that may be established from time to time by

other regulatory agencies which apply to persons living aboard vessels in the harbors of Monterey County or the State of California.

D) **Time limits.** Live-aboard vessels and persons living aboard vessels shall be subject to the following time limits:

- 1) **Term of permit.** No application will be accepted and no permit will be issued by the District to live aboard a vessel in the Harbor for more than 30 days. All permits will expire on the last day of each month, and will renew automatically unless revoked or suspended by action of the Harbormaster. The Harbormaster will submit a report to the Board containing the names of all live-aboard vessels, all persons living aboard, their assigned berth numbers, and any pending revocation or suspension action at each regular Board meeting. Nothing contained in this paragraph shall prevent the District from utilizing the Unlawful Detainer procedure as provided by State law.
- 2) **Time out of Harbor.** Live-aboard vessels and persons living aboard can leave the Harbor for any length of time and retain their status as long as required fees are paid.

All vessels used for living aboard must meet the requirements of Section 6.120, prohibiting the berthing of inoperable vessels.

E) **General conditions.** All live-aboard vessels and vessels with persons living aboard shall:

- 1) Be in compliance with the rules, regulations and requirements of the Monterey County Health Department, the United States Coast Guard, and the District. The District shall have the right of inspection before a permit is issued;
- 2) Be maintained in a clean and orderly manner;
- 3) Have a working telephone or VHF marine radio monitored aboard the vessel for security. Installation of the device shall be at the owner's sole expense;
- 4) Have telephone service, either by local telephone service provider, cellular service, or personal communication service (PCS), and
- 5) Insofar as occupancy is concerned, be considered single family dwellings and shall at no time house a number of persons so as to create a public nuisance or to be detrimental to the health, safety, and welfare of other users of the Harbor.
- 6) No vessel may be leased or rented for the purpose of accommodation or residence not consistent with the primary operation of the vessel, being commercial or recreational.
- 7) All persons living aboard vessels in the harbor must be registered with the District on the forms, and in the manner provided by the Harbormaster.

F) **Validity of Permit.** The Harbormaster shall not grant or renew a permit to live aboard, or otherwise authorize a persons to live aboard a vessel in Moss Landing Harbor who owes money to the District except in accordance with Section 20.010(C)(4)(b). Continuing permission to live aboard any vessel is contingent upon time and full payment of all fees.

§6.115 - Guests; Contractors

- 1) Without the Harbor Master's prior written authorization, no guests are allowed on any vessel at any time without the slipholder/ registered owner of the vessel present

throughout the guests' stay. The owner of a vessel wishing to authorize a guest to stay with them on their vessel must complete and submit a Guest Authorization form in advance of their guest's visit and the guest must check in at the Harbor Master's office prior to their visit.

- 2) Persons for hire to perform maintenance or repairs on a vessel are not considered "guests" for purposes of this Section. Such persons for hire are considered "contractors" and the owner of a vessel wishing to authorize a contractor to have access to their vessel must complete and submit a Contractor Authorization form in advance of allowing a contractor on District property, and the contractor must check in at the Harbor Master's office prior to accessing the slipholder's vessel.
- 3) Such forms can be submitted via facsimile or electronically so long as the contents can be verified with the slipholder. No contractor will be allowed on the vessel between the hours of 10 pm and 5 a.m. Nothing in this Section shall be construed to allow a guest or a contractor to violate Section 6.110 which prohibits individuals from staying more than 2 cumulative days out of 7 consecutive days without a Liveaboard Permit.

6.120 - Inoperable and Unseaworthy Vessels Prohibited

- A) **Operable and seaworthy condition required.** Boats berthed in the Harbor must be operable and maintained in a seaworthy condition, except when under active repair for no more than 30 days, and be of a design suitable for operation on the waters of Monterey Bay.
- B) **Questions of operability or seaworthiness.** In cases where the Harbormaster is concerned that a vessel may be inoperable or unseaworthy, the Harbormaster may act as follows:
 - 1) **Operability.** The Harbormaster may request a demonstration of a vessel's operability by giving at least 30 days advance written notice to the vessel owner. Notice shall be given to the owner in person or by Certified or Registered Mail, and by posting on the vessel if the vessel is in the Harbor. The Owner may demonstrate the vessel's operability by any one of the methods defined in Section 2.200
 - 2) **Seaworthiness.** Seaworthiness shall be determined by a qualified independent marine surveyor selected through mutual agreement between the Harbormaster and the owner. When a determination of seaworthiness is required by the Harbormaster, the expense of the surveyor shall be paid by the District in cases where the surveyor determines that the vessel is seaworthy, and the expense of the surveyor shall be paid by the vessel owner where the surveyor determines that the vessel is unseaworthy.
 - 3) **Repair required.** Where a vessel is found to be inoperable or determined to be unseaworthy in accordance with this section, the owner shall have 30 days to affect repairs and bring the vessel into compliance. If after 30 days the vessel is still inoperable and/or unseaworthy, the berthing permit shall be revoked. This section is not intended to apply to brief periods of repair common to most vessels. See Section 6.120(A)
- C) **Berthing permit surcharge.** If any vessel is found to be inoperable or unseaworthy, the District may, in addition to any other available remedy, impose a surcharge on the berthing permit fee for the vessel in the amount provided by Chapter 20; the surcharge shall

continue until the vessel is made operable or seaworthy, or is removed from the Harbor by owner. The surcharge imposed for any period of time less than one calendar month shall be prorated. The surcharge shall begin at the expiration of the 30-day periods specified in subsection (B)1 above.

6.130 Mooring In Designated Areas

- A) **Mooring in designated areas.** The Harbormaster may designate locations within the Harbor in which mooring shall be allowed only with a special Berthing Permit for Mooring. The vessel must be moored in such a manner to safeguard harbor operations and other vessels from collision or other damage, and to not obstruct navigation by other vessels. Failure to moor the vessel in such manner shall result in cancellation of the permit, subject to the provisions of Chapter 24 of this Code, and shall be a misdemeanor.
- B) **Fee.** The fee for a Berthing Permit for mooring shall be in the amount established under Section 20.100.
- C) **Duration.** Berthing permits for mooring shall be issued for a period of up to one month, subject to renewal by the District.
- D) **Overnight passengers.** Persons shall not stay aboard vessels moored in the designated locations between the hours of 2:00 A.M. and 6:00 A.M., except as expressly authorized by the Harbormaster.

6.200 - Inspection of Vessels

The Harbormaster is authorized to go aboard any vessel in the Harbor for inspection, and the owner or operator, when present, shall allow such inspection, in any case where the Harbormaster determines that:

- A) Conditions or activities on the vessel may cause immediate danger to life, property or the environment; or
- B) There is reasonable cause to believe that the owner, operator, or other person aboard the vessel may be incapacitated, or otherwise in need of emergency assistance.

6.300 - Removal of Derelict Vessels by District

If any vessel is found to be derelict, or subject to the provisions of Harbors and Navigation Code Section 522, in addition to the sanctions, remedies and other provisions provided in Section 522, the owner of the vessel may be subject to forfeiture of all berthing privileges in the District and may be ordered to remove the vessel from District waters. Notice of forfeiture shall be included in the notices provided for under Section 522. No berthing privileges shall pass to any person as a result of any sale or transfer under Section 522.

6.310 - Removal of Vessel With Charges Due Prohibited

- A) **Pay before removal.** No person shall remove or cause to be removed from the Harbor any vessel upon which charges for berth rental or any other service are delinquent, without paying all the delinquent charges to the District, and any penalty fee established by the District fee schedule unless such person is ordered to remove the vessel by the Harbormaster.

- B) **Falsification.** It shall be unlawful for any person to violate any written promise given pursuant to this section or willfully to give false information to the District in order to secure the removal of a vessel.
- C) **Urgency Power.** The District and its employees are hereby authorized to take any lawful action necessary to prevent the removal of a vessel in violation of this section, including locking, or otherwise fastening a vessel at its berth.

CHAPTER 8 - VESSEL OPERATIONS

8.110 - Movement of Vessels in the Harbor

- A) A vessel must shift or go into the channel at its own expense whenever it is ordered to do so by the Harbormaster, who shall have the power to enforce the removal of the vessel at its own expense at any time.
- B) Every master, agent, or owner of any vessel who does not obey the lawful orders or directions of the Harbormaster in any manner pertaining to the regulations of the Harbor or the movement, removal or stationing of any vessel is guilty of a misdemeanor.
- C) Vessels may be moved by the Harbormaster with or without the consent of the owner or other person in charge, for the protection of life or property or for proper utilization of harbor facilities. (See Section 20.100(C), Special Service and Equipment Fees.)

8.120 - Obstructions to Navigation Prohibited

Every person who unlawfully obstructs or causes obstruction to navigation in the Harbor is guilty of a misdemeanor, as provided in Harbor and Navigation Code Section 131.

8.140 - Public Peace, Vessel Owner Responsibility

- A) The owner of a vessel will be responsible for the conduct of those using it or visiting or occupying it, and of the master or other person in charge of it, and they are jointly and severally liable for any penalty established by law.
- B) The owner of a vessel is required to notify District staff in writing when the owner hires or otherwise invites an individual to perform work on or otherwise access the owner's vessel. Such notification shall include the anticipated duration of the access, the hours and days the access will occur, the name of the individual, and the vessel owner will direct the individual to register at the District's office and provide identification to District staff prior to commencement of any work or otherwise accessing the owner's vessel. The vessel owner acknowledges that such owner is responsible for the actions of his/her invitee while the invitee is on District premises
- C) Disturbance of the peace by those aboard any vessel in the Harbor is prohibited, and may be the basis for revocation of the vessel's berthing permit, in addition to any applicable criminal penalties.

8.150 - Sails on Vessels

No vessel shall remain tied-up to any dock or slip with any sail hoisted on its mast. All sails shall be dropped as soon as a vessel is tied-up, and shall remain down until the vessel is being made ready for imminent departure. Sails may remain up temporarily while drying or being checked if the following conditions are met:

- A) The vessel is attended while sails are up;
- B) All sheets are left loose so sails are free in the wind;
- C) No extra strain on the slip results from the sails being up; and
- D) Such activity is deemed prudent, under the circumstances, by the Harbormaster.

8.160 - Salvage

Any vessel that is determined by the Harbormaster to be in danger of sinking or is a hazard to other vessels or the premises may be removed forthwith with all expense and risk of loss or damage being the responsibility of the vessel owner. If the District is required to render salvage services to any vessel, all such costs shall be paid by the owner. The District shall be entitled to recover costs and expenses including reasonable attorney's fees and court costs incurred in removal or salvage.

8.170 - Speed Limit

Vessels, boats and dinghies within all portions of the Harbor except the Harbor mouth area between the jetties shall not operate at a speed greater than four knots, or at a speed that creates any wake sufficient to damage vessels or other property, whether or not damage is caused. Any person operating a vessel contrary to this section shall be responsible for any damage caused by their wake, and may be cited and fined as provided by Section 20.100.

CHAPTER 10 - MOTOR VEHICLE REGULATIONS

10.100 - Motor Vehicles

It shall be unlawful for anyone to:

- A) Drive or operate any motor vehicle onto or upon any dock or launch ramp except for the purpose of loading or discharging freight or while performing necessary duties that require the vehicle on a dock or launch ramp. Any vehicle shall be subject to the provisions of this section and shall be under the constant attendance of the operator while on a dock or launch ramp. The operator shall immediately remove the vehicle from the dock or launch ramp upon completing the necessary activities on the dock or launch ramp. The General Manager shall take charge of any vehicle left upon any dock or launch ramp in violation of this rule, and shall store the vehicle at the expense of the owner. Any person violating this rule shall, in addition to the monetary penalties provided by this Code, be refused any further access to any dock without first obtaining special permission from the General Manager;
- B) Drive or operate any motor vehicle, trailer or semi-trailer from which any gasoline, oil or other liquid other than clean water is dripping;
- C) Fill the fuel tank of any motor vehicle with gasoline, or other petroleum product, or to extract such products from a vehicle while on any dock or launch ramp; or
- D) Store a motor vehicle on any District property, except in storage or parking areas designated and/or posted by the District.

10.110 - Parking Requirements

- A) **Designated parking areas.** Parking within District parking lots is by permit only. The District may identify certain spaces as “handicapped”, “loading/unloading”, “reserved” and “visitor” for which a District permit is not required. The District may limit the duration of parking allowed in certain lots or certain areas of lots.
- B) **Parking permits.** Parking is allowed in District lots only after first obtaining a parking permit, except in parking spaces designated as “Visitor” and marked with green paint. The issuance and use of parking permits is subject to the following requirements:
 - 1) **Eligibility for permits.** Parking permits shall be issued by the District as follows:
 - a) Vessels with assigned berths shall be issued one complimentary parking permit for each person or entity who assumes responsibility for payment of berthing fees according to information provided for the District’s records. A maximum of two (2) such permits shall be issued. The berth holder shall be responsible for the permits. One such permit may be replaced once without charge. The standard parking permit fees shall be charged for any subsequently replaced permits. Only two complimentary permits, including any replacements thereof, per assigned berth will be valid at any one time.

Such permits shall be valid only for vehicles capable of parking wholly within the confines of one parking stall as defined in C) 3) below. If the vehicle is not capable of parking wholly within the confines of one parking stall then, if the General Manager issues a permit in accordance with B) 1) c) below, the assigned berth

holder will pay the difference between the cost of a monthly parking permit and the cost of an oversized vehicle in accordance with the rate and fee schedule.

- b) All other vessels, crewmembers and those otherwise having business at the Harbor may purchase parking permits in accordance with the District Fee Schedule set forth in Section 20.100 as the same may be changed from time to time.
 - c) Permits may be issued for motor homes and oversized vehicles, only at the discretion of the General Manager.
 - d) Permits shall be issued to Harbor Commissioners and District employees.
 - e) Parking permits may be transferred between vehicles belonging to the same person.
 - f) Parking permits shall not be required in the parking lots adjacent to the District's offices from one-half hour before to one-half hour after the periods of scheduled meetings of the Board of Harbor Commissioners.
- 2) **Required display of stickers and permits.** Required parking authorizations must be visible at all times, with the expiration date, if any, clearly visible from the exterior of the vehicle, in compliance with the California Vehicle Code, and positioned so that the Vehicle Identification Number is not obstructed. Hanging permits shall be displayed on the driver's side dash or from the rear view mirror. Adhesive permits shall be displayed on the lower left driver's side of the windshield. All other permits shall be displayed on the driver's side dash.
- 3) **Revocation.** The District may, at its discretion, revoke any privileges authorized under this section.
- 4) **Violation.** Violation of this Section is an infraction

C) **Use of District parking lots.**

- 1) **Overnight parking.** No person shall leave a motor vehicle or trailer on any District parking lot between the hours of 12:00 P.M. midnight and 3:00 A.M. without first securing permission from the District. Any person whose berthing fees are paid may have permission for overnight parking on a District lot with a valid permit, however, occupied vehicles shall be subject to additional fees.
- 2) **No parking areas.** No person shall, at any time, park a motor vehicle or trailer on any District parking lot in an area designated "No Parking" except for emergency purposes.
- 3) **Parking in stall required.** Unless authorized by the District, no person shall park a motor vehicle, trailer or oversized vehicle on any District parking lot or roadway except within a stall marked for parking. All motor vehicles, trailers or oversized vehicles must be parked wholly within the confines of one parking stall, allowing for the appropriate entry and exit of the subject vehicle as well as adjacent vehicles. Any oversized motor vehicles or trailers that cannot be parked entirely within one stall shall park, after first obtaining a permit in accordance with B) 1) c) above from the District and payment of appropriate fees, in the area, if any, designated by the District for parking oversized vehicles.

- D) **Operable, registered vehicles required.** All private vehicles parked in a parking lot owned, maintained, or leased by the District shall be operable and shall be currently registered with the Department of Motor Vehicles. Failure to maintain an operable, registered vehicle in a District parking lot shall cause the District to revoke the vehicle owner's Permit and the vehicle shall be removed at owner's expense.
- E) **Citation and/or removal for unauthorized parking.** Unauthorized parking in the Permit area, or extended parking in a limited duration parking area, can result in a citation or the removal of the vehicle at owner's expense. Vehicles parking with expired or revoked permits shall be considered unauthorized-parked vehicles.
- F) **Speed limit.** The speed limit for motor vehicles in District parking lots is 15 miles per hour.
- G) **Trailer parking.** No boat trailer or other trailer parking shall be allowed without a permit issued by the District.
- H) **Vehicle Code requirements.** All applicable provisions of the California Vehicle Code shall apply to vehicles operated on District property.

10.200 - Vehicle Repairs

No person other than a District employee working on a District-owned vehicle shall repair a vehicle in the Harbor area without the General Manager's express authorization.

CHAPTER 12 - DISTRICT PROPERTY REGULATIONS

12.010 - Purpose and Applicability

The purpose of this chapter is to provide regulations for the use of District-owned properties by the public, vendors, concessionaires, renters or lessees. These regulations apply to the specific properties covered by this chapter in addition to all other applicable provisions of this Code.

12.100 –District Property Generally

- A) **Aircraft.** It shall be unlawful for any aircraft to land, taxi, park or take off on any District property, including beaches, roads, parking lots and other open areas, except for county, state or federal aircraft in the performance of official duty or in an emergency.
- B) **Public Intoxication .** It is unlawful for any person in an intoxicated condition to remain or be on any District property, regardless of whether such person is in or upon any vehicle or conveyance.
- C) **Fires and firearms:**
- 1) No person shall light, use or maintain a fire on any District property except in a fireplace or containment vessel. No person shall abandon any fire without first having completely extinguished it with water; no fire, coals or ashes shall be covered with sand. Open fires are not permitted on any vessel in Moss Landing Harbor.
 - 2) No person shall fire or discharge any rifle, pistol or other firearm on District property without first having obtained permission in writing from the General Manager or the sheriff.
- D) **Public peace.** Disturbance of the peace by any person on any District property shall be prohibited.
- E) **Play, games and sports.** No person shall engage in any activity on District property that is likely to cause injury. The only games permitted are those which are organized so as to not cause disruption of or infringement upon other District activities or District employees.
- F) **Wheeled conveyances on docks.** It is unlawful to use rollerskates, skateboards, bicycles, scooters or other similar conveyances on District docks, floats, ramps and gangways.
- G) **Personal Floatation Devices (PFD).** All persons should, and all children under 12 years of age shall wear a PFD when on District docks, floats, ramps and gangways.
- H) **Animals.** See Section 14.100, Animal Control.
- I) **Littering.** No person shall leave, deposit, drop or scatter broken glass, ashes, waste paper, cans, animal carcasses or any other rubbish, refuse or other discarded material in any location other than an approved District trash receptacle, and no person shall discard on District property or in District trash receptacles such materials that originate from places other than District property.
- J) **Launching.** Launching from Harbor District property is authorized at launch ramps and areas designated accordingly by posted signage. A launch permit is required to launch in any authorized location on District property.

- K) **Permit Required.** Using, accessing, trespassing and encroaching on the banks owned or controlled by the Harbor is strictly prohibited without a facilities use permit (see Chapter 26).

12.200 - District Beaches

The requirements of this section apply to all public use of beaches owned or controlled by the District.

- A) **Alcoholic beverages.** The possession or consumption of any alcoholic beverage is prohibited on any District beach. It is unlawful for any person in an intoxicated condition to remain or be on any District beach, regardless of whether such person is in or upon any vehicle or conveyance.
- B) **Camping.** Beach camping or overnight sleeping is prohibited.
- C) **Closed areas.** No person shall enter any portion of beach posted by the District as being closed to public access.
- D) **Glass containers.** Glass containers are prohibited on all District beaches.
- E) **Restoration areas.** Interference with or damage to areas being revegetated or otherwise restored is prohibited.
- F) **Swimming areas.** Surfing, windsurfing, and the use of other watercraft is prohibited in waters adjacent to beaches designated and posted by the District for swimming only.

12.300 - Dry Storage Area

- A) **Authorization for use required.** Use of the District dry storage area is allowed only with the permission of the General Manager, and only for the purpose of storing vessels and related personal property after assignment of an individual storage space and paying the fee required by Section 20.100. Applications for storage space shall be on the form provided by the District. Assigned berth permittees with vessels on extended trips may store their motor vehicles in the dry storage area for a period approved by the General Manager without a fee. No major repairs or work are allowed in the District dry storage area without permission of the General Manager.
- B) **Identification required.** All vehicles, vessels and equipment in the dry storage area shall have current registration. License numbers and Permits or other suitable identification shall be affixed and visible.
- C) **Movement of stored materials.** All vehicles, vessels and equipment placed in the dry storage area shall be moved by their owner as required by the General Manager.

12.400 - Kirby Park

- A) General rules and regulations for park use. Within Kirby Park, no person shall:
- 1) Operate a vehicle of any type outside the designated driveway and parking area;
 - 2) Light, use, or maintain a fire, except in a fireplace or containment vessel;
 - 3) Camp or sleep overnight;
 - 4) Discharge a firearm;

5) Litter; or

6) Violate any other law, ordinance, rule, or regulation of the District, County, or State.

B) Use of boat launch ramp. All persons using the boat launch ramp shall obey all District, County, and State laws and regulations regarding boat safety and courtesy.

12.500 – Elkhorn Slough

All commercial vessels using Elkhorn Slough shall be clearly marked with letters and numbers at least four (4) inches high on each side of the vessel which identify the commercial entity owning or operating the vessel and the individual vessel within the fleet. The District shall be provided with a list of all such commercial vessels operating on Elkhorn Slough.

All persons operating commercial vessels on Elkhorn Slough shall have a permit issued by the District for such operation.

12.600 – Recreational Vehicle Park

A) Check Out Time. The check out time shall be 12:00 noon. Any vehicle parked after that time shall be billed for an additional day.

A) Speed Limit. The speed limit shall be 5 miles per hour at all times.

B) Quiet Hours. Quiet must be maintained between the hours of 10:00 p.m. and 6:00 a.m. During these hours the playing of music, loud conversation, and other such noises are prohibited. Vehicles may not run generators during these hours.

C) Tent Campers. Tent campers are welcome on a space-available basis.

D) Children. Children must be supervised by parents at all times. Small children must be accompanied by an adult at all times in restrooms, laundry, tot-park, parking lots, docks, floats and wharves.

E) Clotheslines. Clotheslines are prohibited.

F) Drain Hoses. Drain hoses to the ground are prohibited. All sewage, grey water, and any other discharge from the recreational vehicle must be to the designated dump station.

G) Sites. All sites must be kept clean and free of debris. No repairs, oil changes, or washing of vehicles is allowed in the Recreational Vehicle Lot.

H) Parking. One vehicle is allowed at each site. All extra vehicles must be parked in the District's parking lot.

I) Pets. Pets are welcome, however they must be on a leash not to exceed 6 feet at all times when outside the recreational vehicle. Please exercise all pets in the area provided. Clean up after your pet.

J) Trash. All trash must be deposited in appropriate receptacles. Do not leave trash in the site areas.

K) Operating Hours. The recreational vehicle park is operated 24 hours per day. It is the responsibility of the recreational vehicle owner to assure that all rules and regulations are complied with.

- L) Fees.** Fees are payable in advance. Failure to pay fees will result in penalties described elsewhere in this Ordinance Code.
- M) Length of Stay.** No recreational vehicle may occupy a site for more than 30 consecutive days. At the end of 30 days any person desiring to stay longer must remove the recreational vehicle, and all appurtenances and accessories thereto, from the recreational vehicle park for a period of at least 6 hours, after which such recreational vehicle may occupy another site, if available.
- N) Reservations.** Reservations may be accepted in conjunction with berthing inquiries. All reservations require prepayment for the length of stay desired.

12.700 – Fisherman’s Memorial Park

This section is reserved for future use.

CHAPTER 14 - GENERAL HEALTH AND SAFETY REGULATIONS

14.100 - Animal Control

- A) **Leashes.** It shall be unlawful for pet owners to allow their pets to roam freely anywhere on District property. When not confined to a vessel, vehicle or building, the animal must be on a leash no more than six feet long.
- B) **Strays.** Any animal found running loose may be taken up by authorized District personnel and delivered to the Monterey County Department of Animal Regulation, provided that District personnel will attempt to locate the owners of licensed animals before impounding.
- C) **Cleanup.** No person shall allow their animal to defecate on any District property without the person properly depositing the waste in a receptacle designated for trash disposal.
- D) **Noise.** It shall be unlawful for pets to cause excessive noise or disturb the peace. Pets are not to be allowed or placed on private property within the Harbor without the express permission of the property owner.
- E) **Licensing.** All persons owning, caring for, or controlling any pet shall comply with all applicable rules, regulations, laws or statutes requiring licensing, tagging, and vaccinating of pets.

14.110 - Explosives, Acids, Flammable Liquids

- A) **General requirement.** Except as expressly authorized by the General Manager, explosives, acids, and containers that have been used for the storage or transportation of diesel, oil, gasoline, distillate, kerosene, or other flammable products or toxic chemicals, shall not be permitted to remain overnight in the Harbor.
- B) **Explosives.** It shall be unlawful for any person to store, place, or handle within the Harbor Class "A", "B" and certain Class "C" explosives as defined in Title 49, U.S. Code of Federal Regulations. Small arms ammunition is permitted, provided it does not violate any Federal, State or local laws or ordinances that may apply, and provided it is not loaded in a weapon. State-approved seal bombs, or equal, may be stored and handled but not detonated in the Harbor. Coast Guard approved flares may be stored and handled but not fired (except in emergencies) in the Harbor.
- C) **Flammable liquids.** No person shall handle or store more than one gallon of any Class I flammable liquid, (excluding Coast Guard-approved liquids in Coast Guard approved fuel tanks, and No. 2 diesel oil in approved type drums or tanks) on the docks or waters of the Harbor, or on vessels docked or berthed at the Harbor.

14.120 - Fire-Fighting Apparatus

It shall be unlawful for any person to obstruct or interfere with the free and easy use of fire lanes or access thereto, or to use, remove or in any manner disturb, any fire extinguisher, fire hose, fire hydrant, or any part of any fire sprinkler system or any other fire fighting appliances or apparatus installed in or upon any dock, warehouse or other building, structure or premises under the jurisdiction of the District except for the prevention of or suppression of fire; provided, however, that nothing herein contained shall prevent the making of necessary repairs or tests by any person duly authorized to do so.

14.130 - Fishing from Docks and Bridges

Fishing from docks, bridges, wharves, piers and promenades of the Harbor is prohibited, except in specific areas posted by the District to permit fishing.

14.140 - Flames, Fire, and Welding

- A) Fire shall not be used on board any vessel to heat pitch, tar or other flammable substances, while such vessel is in any slip, basin, channel, or canal, or moored to any dock or other vessel; however, fire may be used for such purposes on boats or floating stages provided that sufficient emergency fire fighting equipment and fire watchmen, to the satisfaction of the General Manager, are present at all times.
- B) No bonfire or open fire for the burning of rubbish or refuse materials, or for any other purpose, shall be allowed on any of the property under the jurisdiction of the District, except as otherwise provided by this section.
- C) No welding or open fire shall be allowed on any dock, or upon any vessel in any slip, channel, basin, or canal, until and unless the General Manager determines that sufficient emergency fire fighting equipment, properly manned, is present and ready for immediate use.
- D) When a vessel is taking on or discharging fuel, petroleum products through a pipeline, or otherwise transferring fuel or petroleum products, all fires including fires in boilers, shall be extinguished, and no gas or electric welding shall be performed on or within 20 feet of the vessel. At least one Coast Guard approved fire extinguisher shall be present and ready for use at all times when fueling or transferring fuel or petroleum products.

14.150 - Refuse Disposal

The following provisions address refuse disposal within the Harbor.

- A) It shall be unlawful to discharge or deposit or cause the discharge or deposit, either from any vessel, or from the shore, dock, or other facility, any meat, fruit, vegetable, dead animal or putrefying matter, garbage, tires, paper, litter, waste, or any rubbish or refuse of any kind, in or upon the waters of the District, or on the land adjacent to any navigable water, either by ordinary or high tides, or by storms or floods or otherwise.
- B) All refuse shall be disposed of only in approved refuse containers that are regularly serviced and removed from the Harbor and dumped in approved disposal areas. The General Manager is authorized to order any person violating this section to immediately clean up and remove such refuse.
- C) In the event of failure by any such person to immediately remove refuse, the General Manager shall remove the refuse at the expense of such person. Failure to remove and properly dispose of refuse and/or failure to pay for the expense of removal and disposal shall be grounds for revocation of permits. All such charges for removal and disposal shall remain due until paid, notwithstanding revocation of permits.
- D) It shall be unlawful for any person to enter into any trash or rubbish receptacle, or recycling container for purpose of scavenging, collecting, reclaiming or recovering materials deposited in such receptacle or container by others. The practice of "dumpster diving" is not allowed on District property.

14.160 - Refueling Limited

No vessel shall be refueled at any Harbor berthing dock, and no fuel pipeline or hoseline shall be maintained or used on the property of the District. This section shall not prohibit the use of Coast Guard-approved closed systems and automatic coupler devices for portable fuel tanks, and shall not prohibit shifting fuel between tanks on the same vessel by a closed system. Fueling of vessels at any location other than the fueling dock shall require a permit issued by the District.

14.170 - Smoking

It shall be unlawful for any person to smoke, or to light, use, or carry any match, open flame or lighted lantern, upon any dock in the District where a "No Smoking" notice is displayed.

14.180 - Transfer of Hazardous Substances

No person without a permit shall cause the open transfer of any gasoline, fuel, or other toxic substance from one container or vessel to another, including but not limited to fuel tank of a vessel, within the Harbor other than at an authorized dock for the transfer of such substance. See also Harbors and Navigation Code Sections 135 and 293.

14.190 – Safety Equipment

It shall be unlawful for any person to tamper with, alter, modify or otherwise disturb any piece of safety equipment or safety system installed by the District or upon District property. This section does not apply to authorized persons engaged in repairs or installation of said equipment. Violation of this section is a misdemeanor.

14.200 – Backflow Devices

It shall be unlawful to connect to any hose connection on any dock unless such connection is fitted with a back flow device.

CHAPTER 18 - RESOURCE PROTECTION

18.010 - Purpose

This chapter provides regulations to implement the policies of the Moss Landing Harbor District Master Plan addressing the protection of the natural resources under the stewardship of the District. Specific regulations will be incorporated into this chapter through amendment of this Code as applicable provisions of the District Master Plan are completed and adopted.

18.100 - Motorized Vessels in Elkhorn Slough

Motorized vessels operating within Elkhorn Slough shall be limited to a speed of four knots, or otherwise produces no wake. Vessels in Elkhorn Slough shall not approach seal haulout areas or otters and shall avoid harassment of birds in wetland areas. Damage to vegetation or soil while accessing and departing the waterway is prohibited.

18.200 - Surface Runoff Regulations

- A) **Purpose.** The purpose of this section is to provide regulations to protect the water quality of the Harbor and waterways under the jurisdiction of the District by implementing the provisions of the *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters* and other applicable regulations published by the U.S. Environmental Protection Agency, to the extent that such implementation is within the authority and responsibility of the District rather than the State of California.
- B) **Boat cleaning and maintenance.** In order to minimize the introduction of pollutants into the Harbor from boat cleaning and maintenance activities, the following cleaning and maintenance practices are required for all boats moored in the Harbor, to ensure the proper disposal of solid and liquid wastes.
- 1) **Hull cleaning and maintenance.** Hull cleaning and maintenance shall be performed to avoid the release to surface waters of harmful cleaners and solvents, and paint from in-water hull cleaning. Detergents and cleaning compounds used for washing boats should be phosphate-free and biodegradable, and amounts used should be minimized. The use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye should be avoided.
 - 2) **Hull painting.** The application of any paint containing any form of tributyl tin (TBT) to any vessel in the Harbor is prohibited.

ARTICLE III
FEEES AND PROCEDURES

**Table 20.100 - District Fee Schedule
Revised July 1, 2015**

The fees and charges for services established by the Board under Section 20.100 of the Moss Landing Harbor District Ordinance Code for (A) berth rental fees, (B) District permits, and (C) services and equipment, are set forth below:

A) **Berth rental fees.** Berth rental fees for assigned, temporary, and transient berths, and for mooring in designated locations, are in the amounts set forth. Exceptions to assigned berth fees may be granted by the Board when the Board determines that conditions may warrant the suspension of the assigned berth charge or assessing a different charge against the government of the United States, or of any other nation, or otherwise is in the interest of public welfare.

1) Assigned Berth Permit Fees - Calculated on a monthly basis of \$7.15/foot. All vessels holding an assigned berth permit will be billed on the basis of vessel length over-all, or berth length, whichever is the greater for the berth to which the vessel is assigned. This is irrespective of the actual berth held by the vessel. Persons having an Assigned Berth shall be entitled to the following discounts:

a) Annual Payment Discount - A discount of 3% off the regular fee for payment of one year in advance. All such annual fees are due on October 1st of each year.

Should an assigned berth permit be issued subsequent to October 1st of any year, and the permittee wishes to pay the slip fee annually, a discount of 3% off the regular fee will be applied for the remaining months thru the following September 30th.

Existing annual assigned berth permittees will be entitled to a 3% discount until all annual accounts expire on September 30th, 2008.

In the event the berthing permit is terminated prematurely the berthing fee shall be recalculated without the advance payment discount prior to issuing of any refund. This discount may not be taken in addition to the Quarterly Payment Discount.

b) Quarterly Payment Discount - A discount of 3% off the regular fee for payment of 3 months in advance. In the event the berthing permit is terminated prematurely the berthing fee shall be recalculated without advance payment discount prior to issuing of any refund. This discount may not be taken in addition to the Annual Payment Discount.

c) Commercial Vessel Discount - A discount of \$0.50/foot for commercial vessels defined as follows:

(i) Commercial Fishing Vessel - A vessel currently licensed by the California Department of Fish and Game for commercial fishing, and currently documented by the United States Coast Guard as a fishing vessel or licensed by a state, and having landing receipts dated not more than one year prior to the date of application for commercial discount. Application for commercial discount shall be made under penalty of perjury on forms provided by the District.

- (ii) The \$5,000 landing receipt requirement is suspended during any closure of any given fishery for which the assigned slipholder has a valid permit and on which the slipholder has relied in the past to meet the provisions of this section. The suspension is valid until the fishery reopens, the slipholder allows the fishing permit to lapse, or for a period of two years, whichever first occurs. Nothing contained herein shall prohibit the District from discontinuing or reducing the discount at any time.
 - (iii) Notwithstanding the foregoing, unless the vessel provides \$5,000 worth of landing receipts, no persons will be allowed to stay on board the vessel without a liveboard permit applied for and issued in accordance with §6.110.
 - (iv) Commercial Passenger Vessel - A vessel currently documented by the United States Coast Guard for the carriage of passengers or licensed by a state, and having proof of commercial service in the form of receipts or IRS Form 1040, Schedule C or other such proof acceptable to the Harbormaster, and whose owner holds a current Facilities Use Permit issued by the Moss Landing Harbor District permitting the commercial use of the vessel in or from Moss Landing Harbor. Application for commercial discount shall be made under penalty of perjury on forms provided by the District.
 - (v) Other Commercial Vessel - A vessel currently documented by the United States Coast Guard or licensed by a state, and having proof of commercial status acceptable to the Harbormaster, and whose owner holds a current Facilities Use Permit issued by the Moss Landing Harbor District permitting the commercial use of the vessel in or from Moss Landing Harbor. Application for commercial discount shall be made under penalty of perjury on forms provided by the District.
- d) Offloading Commercial Vessel Discount – a discounted berth fee of \$0.50/foot per day will be charged to commercial vessels that are not subject to an existing berthing agreement with Moss Landing Harbor that offload fish in an established commercial fish offloading facility in the Harbor, subject to providing a landing receipt for such service to the Harbor upon check-in. Such discounted fee shall be in effect for a maximum of 48 hours. Thereafter, the vessel shall be subject to standard berthing fees established by the District’s fee schedule.
- e) Traveling Vessel Discount - A discount of \$1.00/foot for each full calendar month that the vessel is away from Moss Landing Harbor. This discount may only be taken if the owner or operator of the vessel notifies the harbor office on or before the 1st day of the month that the vessel will be absent for the month following. Except as otherwise provided for in this section the definition of "Commercial Vessel" contained in Section 2.200 remains in effect.
- 2) Temporary Berth Permit Fees - Calculated on a monthly basis of \$11.35/foot. All vessels holding a temporary berth permit will be billed on the basis of the berth size appropriate to the length of their vessel over-all. Fees apply whether vessel is side-tied, end-tied, in a berth or rafted. Fees apply whether or not vessel has access to utilities. Persons having a temporary berth shall be entitled to the following discount:

- a) Quarterly Payment Discount - A discount of 3% off the regular fee for payment of 3 months in advance. In the event the berthing permit is terminated prematurely the berthing fee shall be recalculated without advance payment discount prior to issuing of any refund.
 - 3) Transient Berth Permit Fees - Calculated on a daily basis of \$1.00/foot. All vessels holding a transient berth permit will be billed on the basis of boat length over-all. Fees apply whether vessel is side-tied, end-tied, in a berth or rafted. Fees apply whether or not vessel has access to utilities. The minimum daily fee shall be \$10.00. No discounts.
 - 4) Multi-Hull Permit Fees – Unless occupying only a single berth, catamaran type vessels shall pay 150% of the applicable berthing fees for a vessel of its length, or length of its berth, as applicable and trimaran type vessels shall pay 200% of the applicable berthing fee for a vessel of its length, or length of its berth, as applicable.
 - 5) In addition to berth rental fees specified above all Assigned Berth Permittees vessels utilizing District owned or operated facilities shall be charged an AMENITY FEE in the amount of \$52.00 per month. The AMENITY FEE shall be billed on a monthly basis only without adjustment. Failure to pay in accordance with your berthing agreement will result in disconnection of power to your vessel.
 - 6) Liveaboard Fee: Liveaboards, as defined by §6.110 shall pay a fee of \$127.00 per person per month.
 - 7) Pet Fee: Any berther or regular visitor of the Harbor District or regular visitor of a berther who brings a pet onto District property shall pay a monthly fee of \$5.00 per pet.
- B) **District permits.** Permit application fees and permit fees are in the amounts set forth below. Applications for construction permits, rental business permits, short-term facilities use permit, and special activities use permits shall be accompanied by the CEQA review deposit described in paragraph C of this Table 20.100.

Permit	Application Fee	Permit Fee
Construction Permit	Actual cost to District. Payable in increments as explained on application form. CEQA review fee is also required.	None. Lease or License may be required as condition of permit.
Access/Use Permit Trailered Vessels, Includes 12 hours Parking		Daily Permit - \$17.00 per In and Out. Annual Permit - \$160.00 per calendar year. Vessels – Launch Only; \$11.00
Access/Use Permit PWC and Kayaks only; Includes 12 hours Parking		\$11.00 per day (Vehicle + a PWC/Kayak \$140.00 per calendar year. Additional PWC/ Kayak – Launch Access Only; \$6.00 Annual Launch Access Only - \$62.00

Parking Permit Assigned vessel receives one "free" Assigned Parking Permit.	None	Temporary and Transient Vessels and other persons having business in the Harbor or any additional liveaboard - \$80.00 per month. Daily Parking \$7.00; \$14.00/24 hrs. Boat Trailer Parking overnight in certain areas as designated by General Manager - \$10.00
Living Aboard Permit Required By All Assigned Vessels With One or More Persons Living Aboard Except Commercial Fishing Vessels, Transient Vessels	\$250.00 – One time application processing fee	\$127.00 per person per month.
Recreational Vehicle Park (Only available through District if commercial RV Park is full)	None.	Self-contained vehicles only on unimproved site. \$50.00 per night. Failure to pay will result in removal of vehicle at owner's expense.
Amenity Fee		\$52.00 per month
Peddling Permit – Goods or Services with Principal Place of Business Being off Site.	\$250.00 application fee	\$250.00 payable @ \$62.50 quarterly, nonrefundable.
Facilities Use Permit	\$250.00 application fee plus appropriate CEQA review fee if use is not exempt from CEQA.	\$250.00 per year. Lease or license may be required as a condition of permit.
Special Activities Use Permit	\$250.00 application fee plus appropriate CEQA review fee if use is not exempt from CEQA.	\$250.00
Pet Permit		\$5.00 per month per pet.

C) **District services and equipment.** Persons utilizing the below-described District services and equipment shall pay the fee shown below. Persons utilizing other District services required by this Code shall pay the amount of expenses actually incurred by the District to provide the service. Examples include but are not limited to the expense under Section 6.120.B.2 of a surveyor to determine a vessel unseaworthy, the District's costs and expenses under Section 14.150.C for refuse removal. Use of District equipment shall be in the discretion of the General Manager and persons utilizing such equipment will be required to execute a written waiver of liability in advance of such use.

Service/Equipment	Fee
Pass-through credit card transaction fee	\$7.00 per transaction added to all payments made to District using MasterCharge or Visa.
Appeal to the Board (Sec. 24.100)	\$25.00 filing fee
Berth Exchange Between Two Assigned Berth Holders (Sections 6.024 and 6.026)	\$25.00 processing fee for berth exchange between two assigned berth holders to be split between applicants.
Berth Rental Security Deposit (assigned berth) (Section 6.022.B.1.a.)	\$500.00
Assigned Slip and Liveaboard Waiting List (Sec. 6.050.C.1 and (E))	<p>\$75.00 waiting list fee payable annually in January. An assigned vessel that intends to be away for one year or greater may give up its berth and be assigned to the highest position on the waiting list by payment of an annual fee equal to one month's berthing fee in advance and without discount. In the case of multiple vessels utilizing this provision Section 6.050(B) shall apply.</p> <p>The aforementioned \$75.00 assigned slip wait list application fee shall be waived in the event slips in the size category being applied for are available immediately. Notwithstanding the foregoing fee waiver, the applicant will be required to complete the wait list application for administrative and documentary tracking purposes.</p>
CEQA Review - Sections 20.240 and 22.220	\$60.00 deposit for project application subject to review by General Manager. \$500.00 deposit for project application subject to review by Board. Additional fees in amount actually incurred by the District for consultant, studies, public notices, etc. (See Section 20.240.)
Copies of Code Amendments – Section 1.200(B)(9)	\$1.00 for first page, \$0.15 for each additional page. Fees waived for official distribution copies per Ordinance Code.
Copies of Public Records – Section 20.210	\$1.00 for first page, \$0.15 for each additional page. Must complete request. Fees may be waived for official copies.
Dry Storage Space Rental – Section 12.300	<p>Palletized or Unitized storage of materials or gear.</p> <p>Loose gear or materials must be secured on pallets and stacked not more than 8 feet high. Vehicles including boats on trailers; current registration required. Inoperable vehicle registration or immobile vehicles not allowed.</p> <p>10' X 20' = \$70.00 10' X 30' = \$80.00 10' X 40' = \$90.00</p>
Small Barge	\$115.00 per hour or fraction thereof for equipment and 1 employee, 1 hour minimum.
Skiff	\$150.00 per hour or fraction thereof for equipment and 1 employee, 1 hour minimum.

Service/Equipment	Fee
Forklift	\$75.00 per hour or fraction thereof including 1 employee, 1 hour minimum.
Truck	\$200.00 per hour or fraction thereof for equipment and 2 employees, 1 hour minimum.
Floating Barge/Crane (Requires skiff at separate skiff fee)	\$200.00 per hour or fraction thereof for equipment and 2 employees (skiff separate), 1 hour minimum.
Miscellaneous Equipment	As determined by the General Manager.
Pumpout	\$200.00 per hour or fraction thereof for 1 pump and 1 employee; \$100.00 per hour or fraction thereof for each additional pump with employee, 1 hour minimum.
Refloating of Sunken Vessel	The greater of \$800.00 or actual costs.
Towing Outside the Harbor (for non-emergency in Elkhorn Slough)	\$250.00 per hour or fraction thereof for one boat and two employees. Time begins when boat leaves berth. Time ends when boat returns to berth. 2 hour minimum.
Towing Within the Harbor	\$150.00 one way - includes 1 boat and two employees. \$100.00 per hour for each additional boat with employee, 1 hour minimum.
District Vehicle	\$75.00 per hour or fraction thereof for vehicle and 1 employee, 1 hour minimum.
District Personnel	\$70.00 per hour or fraction thereof per employee during normal business hours; \$100.00 per overtime hour or fraction thereof per employee, 1 hour minimum.
Phone Installation	\$90.00 flat fee (installation only, any repairs refer above to District personnel for hourly rate)
Inoperable Vessel Mooring Surcharge - Sec. 6.120.C	\$175.00 per month until the vessel is made operable, or is removed from the Harbor, pro-rated for periods less than 1 month. Surcharge begins at the expiration of the 30-day period.
Key Issuance	Metal keys - \$25.00 per key deposit. Deposit will be forfeited if key not returned within 60 days of departure. Magnetic keys - \$10 per key purchase price. District may repurchase in its discretion in an amount based on condition. Magnetic key fobs - \$12 per fob purchase price. District may repurchase in its discretion in an amount based on condition.
Returned Check, Non-Sufficient Funds	\$25.00 per check.
Late Payment Handling Charge - Section 20.010(C)(2)	\$25.00 per occurrence on balances of \$30 or more.

Service/Equipment	Fee
Mailed Notices - Chapter 24.200 A) 2) a) (ii)	\$5.00 per individual notice; Fees waived for official distribution required by Brown Act, or to other agencies, or committee members.

CHAPTER 22 - ENVIRONMENTAL REVIEW PROCEDURES

22.010 - Purpose and Applicability

This chapter identifies the roles and responsibilities of the District in implementing the California Environmental Quality Act (CEQA), California Public Resources Code Sections 21000 et seq., and the State CEQA Guidelines. The District is responsible under CEQA for acting as lead agency with respect to: all District projects within Monterey County jurisdiction; and all private and District projects within its granted State-owned tidelands. The District is also responsible under CEQA for acting as a responsible agency for projects undertaken by another agency but requiring District action. The intent of these regulations and procedures is to establish a systematic review process, equitable fees, and suitable definitions and criteria for District use. In the event that the provisions of this chapter are inconsistent with those of CEQA, the provisions of CEQA shall control.

22.020 - CEQA Guidelines Incorporated by Reference

The CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et. seq.), including definitions and appendices, as adopted and amended, are hereby incorporated by reference as though fully set forth here. The criteria, purpose, and objectives of the CEQA Guidelines shall apply to activities undertaken by the District that are subject to CEQA, with respect to the review of projects and preparation of environmental documents (exemptions, initial studies, negative declarations, and draft and final environmental impact reports (EIR's)).

22.030 - Determination of CEQA Applicability

Whenever the District proposes to carry out or approve an activity that may constitute a project as defined by the CEQA or the Guidelines, the Environmental Coordinator shall review the activity to determine whether:

- A) It is not a project as defined by Section 21056 of the Act or Section 15378 of the Guidelines; or
- B) It is a project, but is exempt from CEQA because it is either:
 - 1) Statutorily exempt pursuant to CEQA Section 21080(b) and Article 18 of the Guidelines; or
 - 2) Categorically exempt pursuant to Section 21084 of CEQA and Article 19 of the Guidelines; or
- C) It is a project that is not exempt, but the environmental coordinator can determine with certainty that there is no possibility that the activity in question may have a significant effect on the environment; or
- D) It is a project that requires an Initial Study and/or an EIR in compliance with this chapter. When it can be seen clearly that an EIR will be required for the project, the Environmental Coordinator may proceed according to Section 22.200 without further review.

22.040 - Exemptions from CEQA

This section identifies the types of projects undertaken by the District that normally are exempt from CEQA, and the nature of their exemptions. Activities of the District not listed in this section shall be subject to an environmental determination, unless the Environmental

Coordinator determines that an activity not listed here is substantially similar to an activity that is categorically exempt under the CEQA Guidelines.

A) **Statutory exemptions.** The following activities of the District are deemed to be statutorily exempt from the provisions of CEQA, pursuant to CEQA Section 21080(b) and Article 18 of the Guidelines:

- 1) **Emergency projects:** Emergency projects as defined by Guidelines Section 15269:
 - a) Projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster, where the Governor has proclaimed a state of emergency; or
 - b) Emergency repairs to public service facilities necessary to maintain service; or
 - c) Specific actions determined by the General Manager to be necessary to prevent or mitigate an emergency.
- 2) **Ministerial acts.** The following approvals and entitlements granted by the District are considered ministerial actions pursuant to CEQA Section 21080(b)(1) and Guidelines Section 15268:
 - a) Berthing Permits.
 - b) Dry Storage Permits for boats, gear, and construction equipment.
 - c) General work orders.
 - d) Launch Ramp Permits.
 - e) Recreational Vehicle Permits.
 - f) Parking Permits.
 - g) Live-Aboard and Living Aboard Permits.
- 3) **Projects that are disapproved.** Projects that are denied, disapproved, or otherwise rejected by the Harbor District.
- 4) **Setting of fees.** District ordinances or resolutions setting fees for District services are statutorily exempt if the fees and the action adopting them satisfy the provisions of CEQA Section 21080(b)(8) (Rates, Tolls, Fares).
- 5) **Feasibility and planning studies.** A project involving feasibility or planning studies for possible future actions which the District has not approved, adopted, or funded as defined by Guidelines Section 15262. Consideration shall be given to environmental factors, but the preparation of an EIR or Negative Declaration is not required. This exemption is inapplicable to the adoption of a plan that will have a legally binding effect on later activities.

B) **Categorical exemptions.** The following activities of the District (including the approval of permits allowing such activities by private parties) are deemed to be categorically exempt from the provisions of CEQA, pursuant to CEQA Section 21080(b)(10) and Article 19 of the Guidelines:

- 1) **Existing facilities.** As provided by Guidelines Section 15301 for Class 1 exemptions, the operation, repair, maintenance, or minor alteration of or additions to existing

- structures, facilities, mechanical equipment, topographical features, or landscaping, involving negligible or no expansion of use beyond that previously existing.
- 2) **Replacement or reconstruction.** As provided by Guidelines Section 15302 for Class 2 exemptions, the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.
 - 3) **New construction.** As provided by Guidelines Section 15303 for Class 3 exemptions, construction or location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure; the limited extension of utility services to serve such construction; and related accessory structures. For the purposes of this exemption, small structures mean those designed for an occupant load of 10 persons or less.
 - 4) **Minor alterations to land and temporary uses.** As provided by Guidelines Section 15304 for Class 4 exemptions, minor alterations in the condition of land, water, and/or vegetation that do not involve the removal of mature, scenic trees. Examples include but are not limited to new landscaping, minor temporary uses of land having negligible or no permanent effects on the environment, minor trenching and backfilling where the surface is restored, and maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies.
 - 5) **Land use limitations, protective actions.** As provided by Guidelines Sections 15305, 15307 and 15308 for Class 5, 7 and 8 exemptions, minor alterations in land use limitations in areas with average slopes less than 20 percent which do not result in any changes in land use or density, and other actions taken by the District to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment.
 - 6) **Minor accessory structures.** As provided by Guidelines Section 15311 for Class 11 exemptions, construction or placement of minor structures accessory to existing facilities, including but not limited to on-premise signs, small parking lots, and the placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms or similar items in generally the same locations from time to time.
 - 7) **Normal operations of facilities for public gatherings.** As provided by Guidelines Section 15323 for Class 23 exemptions, projects involving the normal operations of existing facilities for public gatherings for which the facilities were designed where there is a history of the same or similar kind of activity occurring for at least three years without the activities causing a foreseeable change in the operation of the facility. Examples are fishing derbies, organized boating races, and mass parking for short-term facilities use activities described in Section 26.200.A.
 - 8) **Other exempt activities.** Categorically exempt activities of the District also include any other activities listed as exempt by Article 19 of the Guidelines.
- C) **Exceptions.** Notwithstanding a designation of exempt, activities where there is a reasonable possibility of significant effect on the environment due to unusual

circumstances, or where the activity presents a potential interference with the promotion and accommodation of commerce and navigation within the Harbor, shall not be exempt.

- D) **Notice of Exemption.** When the Environmental Coordinator determines that an activity is exempt from CEQA, and after the project is approved or the District determines to carry it out, the Environmental Coordinator may file a Notice of Exemption with the County Clerk and may post the Notice of Exemption at the District offices for public review. The posting of the Notice of Exemption commences a 35-day statute of limitations period on legal challenges to the District's decision that the project is exempt from CEQA.

22.100 - Initial Studies and Negative Declarations

- A) **Purpose.** This section provides procedures for Initial Studies, and issuing negative declarations. An initial study is intended to determine whether a project that is not exempt from CEQA as set forth in Section 22.040 may have a significant effect on the environment and, thus, whether an EIR or a negative declaration must be prepared.
- B) **District projects.** When a non-exempt project is to be carried out by the District, the General Manager shall designate a staff member other than the Environmental Coordinator to complete the Environmental Information Form for the project. The Environmental Coordinator shall prepare such information as may be needed to constitute an initial study pursuant to State CEQA Guidelines Section 15063.
- C) **Private projects - Waiver of initial study.** An applicant may waive the initial study process where it is agreed that the project may have a potential significant effect on the environment. A written waiver shall be submitted using the form provided by the General Manager, which constitutes the applicant's agreement to proceed with preparation of an EIR without an initial study or environmental determination.
- D) **Conduct of initial study, time limits.** An initial study shall be conducted as set forth in Guidelines Section 15063, and as provided by this section. The District shall determine whether to prepare a negative declaration or an environmental impact report within 30 days of acceptance of an application as complete. A negative declaration must be approved within 105 days after acceptance of an application as complete, provided that such time limit may be extended an additional 90 days with the mutual consent of the General Manager and the applicant where compelling circumstances justify additional time.
- E) **Public review of proposed negative declaration.** When the Environmental Coordinator prepares a proposed negative declaration pursuant to Guidelines Sections 15070 and 15071 after conducting an initial study, the Environmental Coordinator shall provide public notice of the intention of the District to adopt a negative declaration as follows:
- 1) A copy of the proposed negative declaration shall be sent to the applicant, to every responsible agency and trustee agency concerned with the project, and every other public agency with jurisdiction by law over resources affected by the project; and
 - 2) Notice shall be given to all persons who have previously requested such notice; and
 - 3) Notice shall be either published at least one time by the District in a newspaper of general circulation in the area affected by the proposed project (such notice may be combined with any other public notice required by law), posted by the District on and off site in the area where the project is to be located, or mailed directly to owners of

property continuous to the project area as such owners are shown on the latest equalized assessment roll; and

- 4) The agenda in which the Board or the General Manager considers the project shall contain a notice of the proposed negative declaration.

The notice required by this section shall be provided at least 21 days before adoption of the negative declaration by the District or approval of the discretionary permit or other action that is the subject of the negative declaration. Where notice is provided to a state agency pursuant to paragraph (E)1 above, the notice shall be provided at least 30 days before the item is scheduled for consideration by the Board unless a 21-day period is approved by the State Clearinghouse.

- F) **Determining significant effect.** A determination of whether a project may have a significant effect on the environment shall be made by the Board where a discretionary action or permit is to be approved by the Board, and by the General Manager, where a discretionary action or permit is to be approved by the General Manager. The Board may adopt in whole or in part, modify, or reject the recommendation of the Environmental Coordinator and any Committee.

- 1) When the Board or General Manager determines that a project will not have a significant effect pursuant to CEQA and the Guidelines, a proposed negative declaration shall be adopted pursuant to subsection (G), below.
- 2) When the Board or General Manager finds that a project may have a significant effect, an EIR shall be prepared pursuant to Section 22.200, provided that where the General Manager finds that a project may have a significant effect, he or she shall refer a recommendation to the Board that preparation of an EIR be required, and the decision whether to require an EIR shall be by the Board.

- G) **Issuance of negative declaration.** The Board or General Manager shall adopt the negative declaration if it finds that there is no substantial evidence that the project may have a significant effect on the environment. The negative declaration shall be prepared for filing, and a copy of the negative declaration, including the initial study, shall be posted for at least 10 days in a public place in the District's offices at Moss Landing. If the Board modifies any part of the Environmental Coordinator's recommendations, the modified negative declaration shall be sent to all persons previously receiving the recommendation pursuant to subsection (E) of this section.

- H) **Notice of Determination, statute of limitations.** Within five days after the approval or determination to carry out a project for which a negative declaration has been adopted, the Environmental Coordinator shall file a Notice of Determination with the County Clerk. Such Notice shall also be filed with the California Governor's Office of Planning and Research (OPR) if the project requires discretionary approval from any State agencies. Filing the notice with the County Clerk (and with OPR where a State agency has discretionary approval power over the project) begins a 30-day statute of limitations pursuant to Section 15075 of the Guidelines and Section 21152 of CEQA.

22.200 - Environmental Impact Report Process

- A) **EIR Process initiation.** Where it is determined that an EIR shall be prepared in compliance with subsection 22.200, the Environmental Coordinator shall prepare a

recommended scope of work for the EIR. Where requested by any Commissioner or at the discretion of the Environmental Coordinator, the scope of work may be reviewed and approved by the Board prior to completion. For any private project, the applicant shall be consulted in preparing the scope of work. An applicant may, or if required by the Environmental Coordinator shall, submit additional information to aid in the preparation of the EIR. The Environmental Coordinator shall determine how and to what extent the applicant's information will be used.

- B) **Notice of Preparation.** When the scope of work is completed, the Environmental Coordinator shall complete a Notice of Preparation and attach the scope of work, and distribute the Notice of Preparation to all responsible agencies, trustee agencies, and federal agencies involved in funding or approving the project, the applicant, and any person who has requested such notice. The contents of the notice shall be as provided in Section 15082 of the Guidelines. When one or more state agencies are identified as responsible or trustee agencies, the Environmental Coordinator shall send the Notice of Preparation to the State Clearinghouse. The scope of work may be revised based upon comments from such agencies, or from the public.
- C) **EIR scoping process.** The EIR shall be prepared either by District staff or by a consultant under contract with the District. After receiving comments from the responsible or trustee agencies or any Federal agency, or not later than 30 days after issuing the Notice of Preparation, the Environmental Coordinator shall either initiate preparation of the EIR or engage a consultant to perform the work.
- D) **Consultant selection.** The General Manger shall maintain a list of qualified consultants for preparation of environmental documents. Where a consultant is to be selected, the General Manager may issue requests for proposals to qualified consultants and obtain estimates of fees and time for completion of the EIR, as well as technical approach to the work required. For any private project requiring an environmental impact report, the applicant shall be consulted as to any preference among the qualified consultants submitting estimates, and the General Manager shall give substantial weight to such preferences. The General Manager shall recommend to the Board the consultant who represents the best combination of reasonable fees and qualified performance. Consultant contracts shall require that the consultant and the consultant's subcontractors not have any conflict of interest. The General Manager or his designee shall exercise independent judgment on the draft environmental documents before they are circulated for review.
- E) **EIR contents.** The content of an EIR shall be as required by CEQA and the Guidelines.
- F) **Notice of Completion, public review.** A Notice of Completion of a Draft EIR shall be provided pursuant to Section 15085 of the Guidelines. The District shall provide public notice and a public review period pursuant to Section 15087 of the Guidelines.
- G) **Public Hearing, Draft EIR.** The District may hold a public hearing on any project for which a Draft EIR has been prepared in order to obtain public comment of the adequacy of the Draft EIR. The Environmental Coordinator shall respond to comments in the manner required by CEQA, and shall prepare a Final EIR pursuant to Section 15088 and 15089 of the Guidelines.

- H) **Certification of Final EIR.** The final EIR shall be considered by the Board and any Committee reviewing the project, and shall be certified by the Board prior to approval of the project pursuant to Sections 15090-15093 of the Guidelines.
- I) **Notice of Determination.** Within five business days after the District approves or determines to carry out a project for which a Final EIR is certified, the Environmental Coordinator shall file a Notice of Determination with the County Clerk and, where the project required review by a state agency, with the Office of Planning and Research, pursuant to Section 15094 of the Guidelines.

22.210 - Combined Hearings

The public hearings required by this article for adoption of a negative declaration or for consideration of a Draft EIR and certification of a Final EIR may be combined with any other public hearing conducted by the Board to consider the approval of the subject project.

22.220 - Fees for CEQA Review

Fees for CEQA review shall be paid by project applicants as required by Sections 20.100 and 20.240.

CHAPTER 24 - HEARINGS AND APPEALS

24.050 - Public Hearings; Procedures and Exceptions

The provisions of this Section shall apply to public hearings by the Board and meetings of standing committees, except as provided in Sections 24.055, 24.100, and 24.200 of this Code, or otherwise required by State Law.

- A) **Notice.** The District shall give notice of the time, place, and subject matter of public hearings and meetings of standing committees by posting the agenda for the meeting at which the hearing will be held in the office of the General Manager at least 72 hours in advance, and mailing notices to persons who have paid the fees required by Section 20.100.
- B) **Conduct of hearing.** At the time and place set for the hearing or meeting, the Board shall hear all persons wishing to be heard in accordance with the Ralph M. Brown Act (Government Code § 54950 et seq.), as amended from time to time.
- C) **Hearings on Board-reviewed permit applications.** At hearings on permit applications required by this Code to be reviewed by the Board, the Board shall receive all pertinent evidence in connection with the application. At the conclusion of the hearing, the Board shall make such findings of fact as appear from the evidence, and shall grant, conditionally grant, or deny the application. Examples of permit applications required to be heard by the Board are applications for construction permits for structures affixed to the land (Section 26.300) and special activities use permits (Section 26.200).
- D) **Appeals of Manager-reviewed permit applications.** Appeals of the General Manager's decisions on permit applications shall be heard in accordance with Sections 24.100 and 24.200. Examples of permit applications required by this Code to be heard by the General Manager include applications for: live-aboard permits (Section 6.110), construction permits for structures not affixed to the land (Section 26.300), short-term activities using District facilities (Section 26.100), rental business permits (Section 4.040), commercial vessel facilities use permits (Section 26.100), and peddling permits (Section 4.020).

24.055 - Public Hearings on Proposed Ordinances

Prior to adopting ordinances, the District shall give notice concerning the proposed ordinances in accordance with Harbors and Navigation Code Section 6070.2. At the time and place set for the hearing, the Board shall hear all persons wishing to be heard, in accordance with the Ralph M. Brown Act (Government Code, § 54950 et seq.), as amended from time to time.

24.100 - Public Hearings on Appeals of the Manager's Decisions

Decisions or interpretations of the General Manager pursuant to this Code may be appealed to the Board by an applicant or any aggrieved person as provided by this section.

- A) **Timing and form of appeal.** An appeal shall be filed within 10 business days of the decision that is the subject of the appeal, using the form provided by the General Manager in addition to any other supporting materials the appellant may wish to furnish. An appeal shall be filed with the General Manager, who shall process the appeal pursuant to this section.

- B) **Report and hearing.** When an appeal has been filed, the General Manager will prepare a report on the matter, and cause the appeal to be scheduled for consideration by the Board at its next available meeting.
- C) **Action and findings.** After holding a public hearing in compliance with Section 24.200, the Board may affirm, affirm in part, or reverse the action, decision or determination that is the subject of the appeal. The Board shall make findings stating the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Code.
- D) **Filing fee.** At the time of the filing of the appeal the appellant shall pay the required filing fee as established under Section 20.100 and the cost of publishing the public notice required under Section 24.200(A)(2)(c).
- E) **Appeals of the General Manger's decision on permit applications.** The General Manager's decisions on permit applications required by this Code to be reviewed by the General Manager shall be heard in accordance with this Section and Section 24.200.

24.200 - Public Hearings on Appeals and Matters under Harbors and Navigation Code Section 72.2

Public hearings on appeals under Section 24.100 shall be conducted as provided by this section. Where applicable, the public hearing required by this section shall also serve as the public hearing required by Harbors and Navigation Code Section 72.2.

- A) **Notice of hearing.** Notice of a public hearing under Section 24.100 or Harbors and Navigation Code Section 72.2 shall be given as follows:
- 1) **Content of notice.** The hearing notice shall include the date, time and place of the public hearing, describe the matter to be considered, and explain how interested persons may obtain additional information.
 - 2) **Method of notice distribution.** Notice of public hearings under Section 24.200 or Harbors and Navigation Code Section 72.2 shall be given not less than 10 days before the hearing, as follows:
 - a) **Mailed notice.** Notice shall be mailed to:
 - (i) The appellant when Section 24.100 applied, or the prospective lessee when Harbors and Navigation Code Section 72.2 applies;
 - (ii) Each person who has requested notice and has paid the fee for mailing notices established under Section 20.100;
 - (iii) **Posted notice.** Notice shall be posted at the site of a proposed permit if a permit application is involved in the appeal or at the site of the proposed leasing if Harbors and Navigation Code Section 72.2 applies, or at the office of the General Manager if posting the site is impractical.
 - b) **Published notice.** Notice shall be published in a newspaper of general circulation published within the County of Monterey.
 - c) **Additional notice.** Any notice in addition to that required above may be provided at the discretion of the General Manager.

- 3) **Scheduling of hearing.** Appeals shall be scheduled for public hearing on the next available Board meeting scheduled for at least 72 hours after the appeal is filed. Leases under Harbors and Navigation Code Section 72.2 shall be scheduled for hearing in accordance with the requirements of that Section. At the discretion of the Board, a public hearing may be continued from time to time.
- B) **Notice of action when hearing continued.** If a decision is continued by the Board to a time that is neither previously stated in the notice provided pursuant to subsection (A) above, nor announced at the hearing as being continued to a time certain, the General Manager shall provide notice of the further hearings or action in the same manner and within the same time limits as provided by subsection (A).
- C) **Conduct of hearing.** At the public hearing, interested persons may present information and testimony relevant to a decision on the matter being discussed.

CHAPTER 26 - PERMIT REQUIREMENTS AND PROCEDURES

26.000 - Purposes, Conditions, and Limitations of District Permits

District permits are required for the activities described in Section 26.010 insofar as the activities are not otherwise regulated by federal, State, or County agencies, and insofar as the conditions of the permits are required for the safety and protection of persons or the property of persons using District facilities or the waters subject to the jurisdiction of the District.

26.010 - Permits Required

- A) **Permit requirement.** No person shall conduct any of the following activities within the harbor area or from the properties of the Moss Landing Harbor District without first obtaining the permit required by the District.
- 1) Berthing or mooring at any District berth or designated mooring area described in Chapter 6 of this Code.
 - 2) Construction or repairs of structures in, on, or over lands or waters under District jurisdiction described in Section 26.300, including pipelines.
 - 3) Living aboard a vessel berthed within the Harbor described in Section 6.110.
 - 4) All special activities described in Section 26.200.
 - 5) All short-term activities using District facilities described in Section 26.100.
 - 6) Use of the District's dry storage area described in Section 12.300.
 - 7) Use of the District facilities by for-hire vessels described in Section 26.100.
 - 8) Peddling within the District described in Section 4.020.
 - 9) Parking a vehicle within the District described in Section 4.070(A).
 - 10) Recreational Vehicle use as provided in Section 12.600.
 - 11) Launching of vessels from District owned or operated launch ramps and other areas designated accordingly by posted signage.
 - 12) The retail sale of fish to the public from or on District property.
- B) **Accident Waiver and Release of Liability.** Permittees assume liability to the maximum extent permissible under applicable law for activities carried out pursuant to District permits. The conditions of waiver and release are set forth in the District application form entitled "Agreement for Accident Waiver and Release of Liability".
- C) **Activities allowed without District permit.** Activities allowed without District permits include activities not described in paragraph A, or have no potential to interfere with the safety and protection of persons or the property of persons using District facilities or the waters subject to the jurisdiction of the District, or have no potential to interfere with public use of the Harbor area for all purposes of commerce and navigation, or with the right of the public to fish or navigate in Harbor waters.

26.020 - Application Requirements

All applications for permits required by this Code shall be filed using the forms provided by the District, including any additional materials required by the General Manager, and accompanied by the fees required by Chapter 20 of this Code (Fees and Charges).

26.030 - Modifications to Permit Language or Conditions. Should a permit applicant or permittee request modification of, or amendment to any of the District's standard Permit language or conditions, such applicant or permittee shall be required to pay the District the actual cost of any expenses incurred for reviewing that request (i.e., attorney fees, consultant fees, Committee fees, etc.), regardless of whether or not the request is granted after such review. An advance deposit against such expenses, in a reasonable amount to be determined by the General Manager, will be required before any action is taken on applicant's or permittee's request.

26.100 - Facilities Use Permit

- A) **Permit.** Owners of vessels operated for hire in District waters and using District facilities and persons who desire to use District waters or facilities for any of the following purposes shall first obtain a Facilities Use Permit. The General Manager may grant the Permit for a maximum of one year, or for the duration of the event, and may renew the permit.
- 1) Organized fishing derbies involving 10 or more persons or vessels, except for derbies requiring a Special Activities Use Permit under Section 26.200;
 - 2) Organized boating races, competitions, or regattas involving 10 or more persons or vessel, except for those requiring a Special Activities Use Permit under Section 26.200;
 - 3) Other organized activities deemed by the General Manager to have little or no potential for restricting harbor operations. Examples might include mass parking for vehicles in connection with events in Moss Landing lasting less than 12 hours, events with less than 100 participants lasting less than 12 hours, or non-intrusive scientific experiments in District waters having a duration of less than 3 months.
 - 4) Peddler's as described in Section 2.200 and 4.020.
- B) **Permit application.** Applications for a Short-term Facilities use Permit shall include the same information required for a Special Activities Use Permit under Section 26.200(B).
- C) **Time of filing application.** Applications for a Short-term Facilities Use Permit shall be filed within the same timelines as a Special Activities Use Permit under Section 26.200(C).
- D) **Application review and approval.** Applications for a Short-term Facilities Use Permit shall be reviewed by the General Manager, who may then approve the Facilities Use Permit if such permit is categorically exempt from CEQA. The General Manager shall then report out the issuance of the permit at the next regular meeting of the Board, who may then ratify or modify the permit. If, in the opinion of the General Manager the Facilities Use Permit is not exempt from CEQA, the application shall be referred to the Board at the next regularly scheduled meeting for further review and determination under the CEQA process. The General Manager's decision is appealable in accordance with Sections 24.100 and 24.200. The General Manager may issue the Short-term Facilities Use Permit upon the same findings specified for a Special Activities Use Permit (Section 26.200(D))

- E) **Notification.** The General Manager shall act upon the application within 14 days after the application is deemed complete, or 14 days after completion of CEQA review. The General Manager shall, if disapproving the application, mail the applicant a notice of the decision, stating the reasons for denial, within five days after the application was denied.
- F) **Duration of permit.** Facilities Use Permits will be issued for a maximum of one year, or for the duration of the event or activity, whichever is longer. Extensions of permit shall be reported to the Board at its next regular meeting in the same manner as original permits.
- G) **Conditions of permit.** A Facilities Use Permit issued as provided by this section shall include conditions of approval covering the same requirements specified for a Special Activities Use Permit in Section 26.200(G).
- H) **Conduct of permittee.** A person who is granted a Facilities Use Permit shall ensure that persons using District facilities under the permit comply with all terms, conditions and provisions of the Permit, with all applicable laws of the state of California, and with this Code. Data accumulated through scientific experiments or tests conducted in District waters shall be released to the District for its review.
- I) **Revocation of permit.** The General Manager shall have the authority to revoke a Short-term Facilities Use Permit if the General Manager finds that any term, condition, restriction or limitation of the Permit has been violated or is being violated.
- J) **Fee.** The permit fee shall be in the amount established under Section 20.100.

26.200 - Special Activities Use Permits

- A) **Special Activities Use Permit required.** No person shall use District waters for any of the following purposes without a Special Activities Use Permit:
 - 1) Organized fishing derbies lasting over 12 hours and/or having over 100 participants;
 - 2) Organized boating races, competitions, or regattas lasting over 12 hours and/or having over 100 vessels;
 - 3) Mariculture operations;
 - 4) Any other organized activity (including scientific experiments) with the potential for restricting Harbor operations, public fishing, commercial or recreational navigation, public access and recreation on District land or waters.
- B) **Permit application.** Applications for a Special Activities Use Permit shall be filed as provided by Section 26.020, and shall also include the following information:
 - 1) The name, address and telephone number of the person seeking the Special Activities Use Permit and identifying the specific proposed use.
 - 2) If the Special Activities Use Permit is to be held by an organization, the name, address and telephone number of the organization, and of its officers.
 - 3) The date when the activity will be held.
 - 4) A description of the specific area(s) to be used (i.e., location within the Harbor, route to be used including starting and termination points, etc.).

- 5) The approximate number of people and vessels or vehicles, and the kinds and types of vessels/vehicles that will participate in the activity.
 - 6) The approximate times of day when the activity will start and end.
 - 7) The location of any assembly areas for people participating in the activity.
 - 8) A copy of the insurance policy to be used by the applicant for coverage of the activity.
 - 9) Any additional information deemed necessary in determining whether the Permit shall be issued.
- C) **Time of filing application.** An application for a Special Activities Use Permit shall be filed with the District at least 90 days before the event. An application requiring a negative declaration or EIR shall be filed within the timelines for CEQA review described in Chapter 22 of this Code. An application shall not be deemed complete until the Harbor District has received all required information.
- D) **Application review and approval.** All Special Activities Use Permit applications shall be reviewed by the Board at a public hearing. Notice of the Board's review shall be posted outside the District office at least 72 hours before such review. The Board's decision is final and there shall be no right of appeal. The Board may issue the Special Activities Use Permit upon finding that:
- 1) The conduct of the activity will not interrupt the safe and orderly movement of vessels in Harbor waters.
 - 2) The conduct of the activity is not reasonably likely to cause injury to persons or property, provoke disorderly conduct, or create a disturbance.
 - 3) The conduct of the activity will not prevent the normal activities of District employees.
 - 4) If the activity is one which shall move from place to place within the Harbor, it will do so expeditiously and without unreasonable delays en route.
 - 5) The activity is not to be held for the principal purpose of advertising any product, goods, or event, and is not designed to be held principally for private profit.
- E) **Notification.** The Board shall act upon the application for a Special Activities Use Permit within 45 days after completion of environmental review. If the Board disapproves the application, it shall mail the applicant a notice of its action, stating the reasons for denial of the Permit, within five days after the denial is final.
- F) **Duration of permit.** Special Activities Use Permits will be issued for a fixed time period, up to a maximum of one year. Continuation of approved activities for more than one year may be approved by the Board as an extension of the permit.
- G) **Conditions of permit.** A Special Activities Use Permit issued as provided by this section shall include conditions of approval covering the following, where applicable:
- 1) The starting time of the activity.
 - 2) The minimum and maximum speeds to be maintained by vessels, if any.
 - 3) The maximum length of components of the activity in miles or fractions of miles.

- 4) The safe and appropriate separation distance to be maintained between people or vessels participating in the activity.
 - 5) The specific areas of the Harbor that may be utilized or occupied by the activity.
 - 6) Mitigation measures recommended by the negative declaration or final EIR for the activity shall be a condition of the Permit, unless otherwise specified.
 - 7) Any other restrictions, conditions or limitations that the General Manager may find necessary.
- H) **Conduct of permittee.** A person who is granted a Permit by the Board shall comply with all terms, conditions and provisions of the Permit, with all applicable laws of the State of California, and with this Code. Data accumulated through scientific experiments or tests conducted in District waters shall be released to the District for its review.
- I) **Revocation of permit.** The Board shall have the authority to revoke a Special Activities Use Permit if it determines that any term, condition, restriction or limitation of the Permit has been violated or is being violated.

26.300 - Construction Permit

A Construction Permit shall be obtained prior to commencing construction within the Harbor. The permit shall be obtained by filing an application as provided by Section 26.020.

- A) **Review of application.** Applications to construct or repair structures affixed to real property shall be reviewed by the Board at a public hearing. Examples include, but are not limited to, the installation or repair of pipelines, pilings, and seawalls. Applications to construct or repair hulls and other structures not affixed to real property shall be reviewed by the General Manager. The General Manager's decision is appealable to the Board in accordance with Sections 24.100 and 24.200.
- B) **Permit conditions.** Construction permits shall be conditioned in a manner to enforce the Resource Protection standards established by Chapter 18, to ensure that the use of public trust lands and waters are not given away without appropriate compensation to the public, and to protect the right of fishing and navigation held by the people of the State of California:
- 1) **Construction affixed to public trust lands in District waters.** Permits to construct structures on public trust lands shall be conditioned on a lease or agreement between the applicant, the State Lands Commission, and/or the Harbor District for the affected area. The permit shall be conditioned on the permittee posting a bond to ensure removal of the construction. The bond shall be of a type and in an amount approved by the General Manager.
 - 2) **Pipeline discharge.** To the extent that pipelines are likely to contaminate the Harbor in a manner not otherwise regulated by State or federal agencies, the permit shall be conditioned on the permittee paying the reasonable cost to clean-up the contamination, as determined by the Board.
 - 3) **Chapter 18.** Compliance with the Resource Protection standards of Chapter 18 is a condition of a Construction Permit.

- 4) **Mitigation measures.** Mitigation measures recommended by the negative declaration or final EIR (if any) for the Construction Permit shall be a condition of the permit, unless otherwise specified.
 - 5) **Expiration date.** Construction permits may be conditioned to expire on a specific date, determined by the Board or General Manager as applicable.
 - 6) **Other.** Any other restrictions, conditions or limitations that the Board or General Manager may find necessary.
- C) **Pipelines.** A Construction Permit for a pipeline gives the permittee the privilege of running a pipeline in, under, or over District waters and gives the permittee the use of the pipeline(s) for the period stated in the permit subject to the limitations of paragraph A, payment of the fees required by this Code, and compliance with the requirements of this Code and other applicable law.
- 1) **Board approval.** Installation of the pipeline(s) will be at the expense of the permittee and the location and manner of installation shall be approved by the Board.
 - 2) **Maintenance.** The permittee shall at all times maintain the pipeline(s) in good condition and in a manner satisfactory to the Board.
 - 3) **Fish receiving hoppers exempt.** The construction and operation of fish receiving hoppers does not require a permit.
 - 4) **Termination of permit.** In the event of cancellation or termination of the permit, the pipeline(s) shall become the property of the District, or the permittee shall be required to remove the pipeline(s) at their own expense, at the option of the Board.
- D) **Permit and application fees.** The permit fee shall be in the amount established under Section 20.100. It shall be in addition to the application fee and other rates, tolls and charges required by this Code.
- E) **Permit renewals.** Renewal of a Construction Permit shall be consistent with requirements of this Code applicable at the time of the renewal.
- F) **Exceptions.** At the General Manager's discretion, applications to construct, repair, or establish structures may be exempted from the requirement for a construction permit provided the construction is (1) exempt from CEQA, (2) located on lands for which no lease or franchise is required from the State Lands Commission, (3) has no potential whatsoever to interfere with commerce, navigation or fishing, (4) is not affixed to structures affixed to land, located in, under, or above District waters, and (5) has no potential whatsoever to adversely affect the physical environment. Examples include the minor alteration of existing structures or replacement of existing structures on lands owned or leased by the applicant, minor trenching and backfilling on lands owned or leased by the applicant where the surface will be restored, and the placement on dry land of temporary use items such as tents or mobile food units in connection with activities at Kirby Park. The General Manager's decision to exempt the construction from the requirement for a construction permit shall not be final until reported to the Board at the next available meeting. The decision may be appealed by any aggrieved person in accordance with Sections 24.100 and 24.200, or appealed by majority vote of the Board at the meeting

where it is reported, in which case it shall be set for hearing at a special meeting of the Board, or at the next regularly-scheduled meeting.

CHAPTER 28 - VIOLATIONS AND ENFORCEMENT

28.100 - Violation of Ordinance Code - Policies and Procedures

It is unlawful for any person to violate or otherwise fail to comply with all applicable provisions of this Code. The General Manager or his/her duly authorized representative shall have the power to issue citations for violations in the manner provided by Chapter 5c, commencing with Section 853.6 of Title 3, Part 2, of the Penal Code.

- A) **Misdemeanor violations.** As provided by Section 6070.4 of the Harbors and Navigation Code, anyone who violates any provision of this Code is guilty of a misdemeanor, subject to fine of up to \$1,000 and/or imprisonment for six months. (Penal Code 19).
 - B) **Revocation of Berthing Permits.** Section 6.028 of this Code (Revocation of Berthing Permit and Removal of Vessel) establishes requirements and procedures for the revocation of berthing permits.
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