

**Article 3: Public Parks, Playgrounds, Beaches, Tidelands and Other Property****§63.03 Municipal Recreation Facilities — Use Without Authorization Unlawful**

It shall be unlawful for any person to make use of any municipal recreation facility for which an activity fee, ticket or permit has been established by resolution of the City Council without first having obtained the required permit or ticket or paid the required fee authorizing such use.

*(Retitled to “Municipal Recreation Facilities— Use Without Authorization” and amended 1–5–1981 by O–15414 N.S.)*

**§63.04 Balboa Park — Area for Meeting Place of Certain Groups and Organizations — Authorized**

That the Park and Recreation Department be, and it is hereby empowered and authorized to select a suitable area of not to exceed ten (10) acres, within Balboa Park, to be developed and used primarily, but not exclusively, for regular meeting places and headquarters by noncommercial local societies, groups and organizations which area engaged in civic, social, educational, recreational or philanthropic work and activities; and within said area to allot or allocate sites upon which buildings, structures and other facilities may be erected in furtherance of such use and enjoyment.

*(Incorp. 1–22–1952 by O–5046 N.S.)*

**§63.04.1 Same — Construction and Use of Buildings**

That the Park and Recreation Department is authorized and empowered to permit the erection or construction by said societies, groups or organizations of headquarters, buildings and facilities upon such sites, in accordance with plans to be first approved by said Department, and to grant preferential, but not exclusive rights or privileges of occupancy and use in connection therewith; and to make and enforce uniform and proper rules and regulations consistent with the provisions of this Section for the use, occupancy, maintenance and care of such sites, buildings, structures and facilities; provided, however, that the title to any building, structure or facility so permitted be erected or built shall upon completion thereof immediately vest in the City of San Diego, and shall become and remain in every respect subject to the jurisdiction, control and regulation of the Park and Recreation Department; and no such society, group or organization shall be granted or be permitted to acquire any exclusive or irrevocable right to use or occupy a particular portion of said area, or building, structure or facility that may be erected thereon.

*(Incorp. 1–22–1952 by O–5046 N.S.)*

**§63.05 Vehicle Access and Parking in any Public Parks**

The City Manager shall have the authority to regulate the parking of any automobile, trailer, motorcycle or other motor– driven vehicle in any public park, beach or plaza property. Furthermore, the City Manager shall have the authority to close any public park, beach or plaza property to automobile, motorcycle or other vehicular traffic, subject to any covenants or legally binding conditions upon such lands. Appropriate signs shall be erected or placed giving notice of any special conditions or regulations that are imposed under this section. It is unlawful for any person to stop, park or leave standing any automobile, trailer, motorcycle or other motor–driven vehicle on a public park, beach or plaza property, or to enter same with any such motor–driven vehicle, in contravention of any condition or regulation which may be imposed under this section.

*(“Vehicle Access and Parking in any Public Parks” added 10–1–1984 by O–16288 N.S.)*

**§63.06 Public Library — Use of Property Regulated**

It is hereby declared to be unlawful for any person, firm or corporation to retain any book, newspaper, magazine, pamphlet, manuscript, or any other property belonging in or to or on deposit with the San Diego Public Library, or any branch, reading room, deposit station, museum, or institution operated in connection therewith, for a period exceeding thirty (30) days after the mailing by letter to the borrower’s address on file with the said library, of a notice in writing to return the same, given after the expiration of the time which by the rules of said institution such article or other property may be kept.

*(Incorp. 1–22–1952 by O–5046 N.S.)*

**§63.06.1 Same — Destruction of Property Prohibited**

Whoever willfully or maliciously or wantonly, or without cause writes in or upon, or injures, defaces, tears or destroys any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, or manuscript, or deliberately injures any furniture belonging to the San Diego Public Library shall be deemed guilty of a misdemeanor.

*(Incorp. 1–22–1952 by O–5046 N.S.)*

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**§63.07 Destruction, Injury of Torrey Pines Trees — Prohibited**

That it shall be unlawful for any person or persons to cut, injure or destroy any trees known as the “Pinus Torreyana” growing upon Pueblo Lots Nos. 1332, 1337 and 1338 or any other public lots or lands, belonging to and within the corporate limits of the City of San Diego.

*(Incorp. 1–22–1952 by O–5046 N.S.)*

**§63.08 Possession of Firearms and Other Devices in Parks and Open Space Areas**

No persons other than those persons specifically authorized by law or City permit so to do, shall use, possess, transport, carry, fire, or discharge any fireworks, firearm, air gun, archery device, slingshot or explosive of any kind across, on, or into any City park or designated open space area. “Designated open space area” for the purpose of this section shall mean those open space lands owned by the City and described in that document on file in the office of the City Clerk as Document No. 17082. The City Manager shall have the authority to add open space areas to said document as open space areas are acquired by the City.

In addition, no persons shall participate in activities utilizing laserscope–equipped guns or devices in any City park or designated open space area. For the purpose of this section, “activities” shall mean war games in which two or more persons participate, and “war games” shall mean any activity where one person attempts to strike another person with a laser light. For the purpose of this section “laserscope” means a portable battery–powered device capable of being attached to a firearm and capable of projecting a laser light on objects at a distance.

This section shall not be applicable to the extent any portion of a City park or designated open space area has been officially set aside or authorized for use by the public or any individual for any of the above prohibited uses.

With regard to, and only with regard to, unloaded firearms, unloaded air guns, laserscope–equipped guns or devices, archery devices and slingshots, a violation of this provision shall constitute an infraction with punishment as defined in Section 12.0201 of this Code. All other violations of this section shall constitute a misdemeanor and be punishable as set forth in Section 12.0201 of this Code.

*(Amended 2–22–1994 by O–18035 N.S.)*

**§63.20 Beach Areas — Authority and Control**

- (a) The Park and Recreation Department of The City of San Diego shall have jurisdiction and control over all beaches owned or controlled by The City of San Diego and all waters abutting or adjacent thereto within the limits of The City of San Diego, and of all lands heretofore and hereafter owned or controlled by the City, adjoining the waterfront of the Pacific Ocean and the waters of Mission Bay, and it shall be responsible for the control and management of said beaches and lands, and waters abutting or adjacent thereto, and of the recreational activities thereon and therein.
- (b) In the following sections dealing with the same subject, wherever the context thereof shall permit, the term “beach area” shall mean any beach or land and the waters abutting or adjacent thereto under the jurisdiction and control of the Park and Recreation Department, as set forth in paragraph (a) of this section.  
*(Retitled to “Beach Areas— Authority and Control” on 5–31–1994 by O–18073 N.S.)*

**§63.20.1 Authority to Enforce Provisions**

It is the duty of the Park and Recreation Director, as the City Manager’s designee, to enforce the provisions of these sections; and all employees of the Park and Recreation Department charged with the duty of maintaining peace, order and safety in beach areas are empowered to assist the police officers of The City of San Diego in the enforcement of the provisions of these sections including the power to make arrests for the violation hereof.

Whenever a power is granted to, or a duty is imposed upon the Director, the power may be exercised, or the duty may be performed by the Park and Recreation Director, or any person the Director may designate for the enforcement of these regulations.  
*(Amended 5–31–1994 by O–18073 N.S.)*

**§63.20.2 Water Activity Zones Established**

- (a) It is the intent and purpose of the Council of The City in enacting this Section, 63.20.2, to regulate recreational water activities such as swimming, board surfing, and boat launching in and upon the waters and lands of all beach areas.
- (b) There are hereby established, in and upon the waters and beaches under the jurisdiction and control of the Park and Recreation Department, six (6) activity zones. Unless otherwise defined and with the exception of Closed

Zones, all activity zones shall extend one thousand (1,000) feet seaward from the mean high tide line. Boat Launch Zones shall also include the adjacent beach area. The six activity zones are as follows:

SWIMMING ZONE  
BOARD SURFING ZONE  
CONTROL ZONE  
NO BOARD SURFING ZONE  
CLOSED ZONE  
BOAT LAUNCH ZONE

The boundaries of each zone are designated from time to time by resolution of the Council of The City of San Diego. These boundaries notwithstanding, City of San Diego lifeguards may, due to weather, crowd conditions, special events, or other factors, alter the boundaries on any given day; and persons shall be notified of any change by signs, signals, verbal warnings or other means. A checkered flag may be posted on the boundary line between two activity zones and when so posted shall constitute due notification of said boundary whether it is the regular boundary fixed by resolution of the Council or a temporary change in the boundary made by lifeguards. Nothing in this Section, 63.20.2, empowers lifeguards to permanently change existing boundaries.

(c) Definitions:

- (1) “Bathing and swimming” shall mean all bathing and swimming activities conducted in water except those activities which involve board surfing or those which involve the possession, control or use of a surfboard.
- (2) “Surfboard” shall mean any noninflated device upon which or with the use or aid of which a person can ride waves or be carried along or propelled by the action of the waves.
- (3) “Board surfing” shall mean any activity which involves riding waves with the use or aid of a surfboard, or being carried along or being propelled by the action of the waves with the use or aid of a surfboard. To “board surf” shall mean to do or engage in board surfing.

- (d) Only bathing and swimming are permitted in a SWIMMING ZONE, and it is unlawful for any person to board surf in, or to possess, control, release, place,

carry, throw, or discharge a surfboard into, or to permit a surfboard to float, drift or be carried into, a SWIMMING ZONE.

- (e) Only board surfing is permitted in a BOARD SURFING ZONE, and it is unlawful for any person to engage in bathing and swimming activities, except as may be incidental to board surfing, in a BOARD SURFING ZONE.
- (f) The following regulations shall be in effect in any area designated as a CONTROL ZONE beginning on the second Saturday in June and extending through the first Sunday after Labor Day of each year:
  - (1) It is unlawful for any person to wade, bathe, swim, surfmat, or engage in any activities incidental to bathing or swimming activities, except those incidental to board surfing in a CONTROL ZONE, prior to eleven (11:00) o'clock a.m. and after six (6:00) o'clock p.m. daily.
  - (2) It is unlawful for any person to board surf in, to possess, control, release, place, carry, throw, or discharge a surfboard into, or to permit a surfboard to float, drift, or be carried into a CONTROL ZONE during the hours between eleven (11:00) o'clock a.m. and six (6:00) o'clock p.m. daily.
- (g) It is unlawful for any person to board surf in a NO BOARD SURFING ZONE or to ride or attempt to ride waves with the use of aid of any other object, except swim fins.
- (h) It is unlawful for any person to board surf in, or to possess, control, use or permit a surfboard to float, drift or be carried into, or to engage in bathing and swimming activities in, a CLOSED ZONE or BOAT LAUNCH ZONE.

*(Amended 5-31-1994 by O-18073 N.S.)*

### §63.20.3 Warning Signals

- (a) It is unlawful for any person to bathe, swim, surfboard ride, row, canoe, or operate a sailboat or power boat or other device on or upon water when warning signals have been placed on or upon said water or the adjacent beach area except for the purpose of making a rescue.

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- (b) It is unlawful for any person to operate a vessel, as defined in the California Harbors and Navigation Code, or a windsurfer, sailboard, or similar device within a swimming area which has been marked by means of buoys or to operate same within one hundred (100) feet of such area at a speed in excess of five (5) miles per hour.

*(Retitled to "Warning Signals" and amended 5-31-1994 by O-18073 N.S.)*

#### **§63.20.4 Compliance**

It is unlawful for any person to refuse to follow or comply with any lawful order, signal, or other direction of a lifeguard, or to knowingly provide false information to a lifeguard, or for any person without lawful authority to deface, injure, knock down or remove any sign or warning placed for the purpose of enforcing the provisions of Chapter VI, Article 3.

*(Retitled to "Compliance" and amended 5-31-1994 by O-18073 N.S.)*

#### **§63.20.5 Waste, Refuse, Fires**

- (a) It is unlawful for any person to leave, discard, deposit, or throw away any glass container, tin can, waste food, papers, or any refuse or rubbish upon any beach area in the City of San Diego. All waste materials shall be deposited in trash cans or receptacles provided for that purpose.
- (b) It is unlawful for any person to move, rummage through, turn over, remove, deface, or knock down any trash can or receptacle placed in any beach area by the City.
- (c) It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any public beach that is not in a City-provided fire container. Fires may be built using fire materials limited to charcoal, clean wood, or paper products, none of which contains landscape debris, paint, stain, sealer, wood preservative, cloth, rubber, metal (including nails and other hardware), asphalt, foam rubber, plastic, or any similar matter or material producing noxious fumes, odors, smoke, or leaving any type of solid residue other than ash. Fire materials shall not exceed a height of more than twelve (12) inches above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container. It is permissible to build a fire on a public beach in a portable barbecue or other similar device using fuel material authorized in Section 63.20.5(c). Coals from any portable barbecue or similar device shall either be removed from the beach area or be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.

- (d) It is unlawful to use a City–provided fire container for purposes of disposal or for any purpose other than the building of fires for cooking or warmth or for the deposit of coals.
- (e) It is unlawful for any person to possess or use any container made of glass upon any beach or adjacent sidewalk area in the City of San Diego.
- (f) It is unlawful for any person who has built, maintained, used, or been within ten (10) feet of a fire on the beach to abandon the fire until all ignited fire fuel material has been exhausted or extinguished. Sand, dirt, or similar material shall not be employed as an extinguishing material. Extinguished ashes shall not be covered but may be left in fire containers. All unused fire material must be removed from the beach and the adjacent public areas of the beach or park. All refuse or rubbish adjacent to the fire container must be removed from the beach or placed in trash receptacles provided for such purpose, so that the beach is left in a clean, sanitary, and presentable condition.
- (g) It is unlawful for any person to use a City-provided fire container between the hours of 12:00 a.m. and 5:00 a.m. The City Manager may issue a permit to allow a fire in a City-provided fire container between the hours of 12:00 a.m. and 5:00 a.m.
- (h) It is unlawful for any person to possess any *household furniture* at any *designated public area*. “*Household furniture*” means items such as, but not limited to, dining tables, coffee tables, chairs, lamps, sofas, couches, recliners, and other similar items ordinarily intended and made for use in the interior of a home. A *designated public area* means the areas described in section 56.71(b). Each piece of *household furniture* possessed shall constitute a separate and punishable violation of section 63.20.5(h). Section 63.20.5(h) does not apply to a *special event* or *commercial special event* for which a *special event permit* has been issued pursuant to section 22.4004.
- (i) It is unlawful for any person to block off, fence, or erect any barrier at any *designated public area* with any rope, cord, barrier tape, or any other material or device. A *designated public area* means the areas described in section 56.71(b). Section 63.20.5(i) does not apply to a *special event* or *commercial special event* for which a *special event permit* has been issued pursuant to section 22.4004. Section 63.20.5(i) does not apply to an open sided tent or pop-up style shade device intended for outdoor use provided the said tent or device is open on at least two sides and is attended at all times. The open area of the tent or device must be equal to at least one-half (50%) of the overall size of the tent or device. Section 63.20.5(i) does not apply when an area is

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blocked off, fenced off, or had a barrier or marking erected for the purpose of identifying or preventing access to any hazard or construction site, or to any barrier erected by any government entity, department, or agency.

*(Amended 7-8-2002 by O-19075 N.S.)*

*(Amended 5-24-2004 by O-19281 N.S.)*

### **§63.20.6 Certain Lifeguards Designated Harbor Police**

- (a) Purpose and Intent. It is the purpose and intent of the City Council in enacting Section 63.20.6 that certain City lifeguards who are regularly employed and paid for duties performed in Mission Bay which are commonly performed by Harbor Police, be designated by the City as Boating Safety Unit members. "Boating Safety Unit" means a unit of the lifeguard service, which, in addition to regular lifeguard functions, is responsible for functions similar to those performed by Harbor Police.
- (b) Those lifeguards designated as Boating Safety Unit members, who enforce laws of The State of California and The City of San Diego which pertain to boating, are designated as Harbor Police; are declared to be regularly employed and paid as such; and are authorized and empowered to act as Harbor Police while on duty in the beach area.
- (c) Those lifeguards designated as Harbor Police are peace officers as defined in Section 830.33 of the California Penal Code; however, they are not peace officers for the purposes of California Penal Code, sections 171c, 171d, or 12027 which deal with the possession of firearms.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.20.7 Driving Vehicles On Beach Prohibited; Exceptions; Speed Limit On Beach**

- (a) Except as permitted by the Director and except as specifically permitted on Fiesta Island in Mission Bay, no person may drive or cause to be driven any motor vehicle as defined in the California Vehicle Code on any beach, any sidewalk or turf adjacent thereto; provided, however, that motor vehicles which are being actively used for the launching or beaching of a boat may be operated across a beach area designated as a boat launch zone.
- (b) The driver of any vehicle operated under the authority of this Section, 63.20.7, shall use extraordinary care and shall at all times limit the speed of the vehicle to five (5) miles per hour or less.
- (c) This Section, 63.20.7, does not apply to vehicles operated by governmental employees in the discharge of official duties.

*(Retitled to "Driving Vehicles On Beach Prohibited; Exceptions; Speed Limit On Beach" and amended 5-31-1994 by O-18073 N.S.)*

**§63.20.8 Lifeguards Authorized to Enforce State and Local Codes — Arrests and Citations**

- (a) Purpose and Intent. It is the purpose and intent of the Council in enacting this section that all City lifeguards be specifically authorized pursuant to the provisions of Section 836.5 of the Penal Code of the State of California, to make arrests without a warrant whenever any such lifeguard has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the lifeguard's presence which is a violation of a statute or ordinance which such lifeguard has the duty to enforce.
- (b) That lifeguards of The City of San Diego, be, and they are hereby authorized, empowered and given the duty to enforce provisions of the San Diego Municipal Code and misdemeanors designated in the State Codes; to make arrests without a warrant whenever any such lifeguard has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the lifeguard's presence; and while engaged in the performance of their duties, to arrest persons and issue citations for violations of said Codes under the provisions of Sections 836.5 and 853.6 of the Penal Code of the State of California when violations occur in City of San Diego beach areas.

*(Retitled to "Lifeguards Authorized to Enforce State and Local Codes — Arrests and Citations" on 5-31-1994 by O-18073 N.S.)*

**§63.20.9 Boat Beaching Areas and Boat Launching Zones, Beaching Prohibited Elsewhere**

The Director may designate any beach area or portion thereof as an area which may be used for the purpose of beaching or launching boats, and may establish and collect fees for the use of such boat beaching or launching areas, subject to the approval of the City Council. Such provisions shall be effective when signs are posted in such areas giving notice of such designation and fees.

No boat or vessel, excepting inflatable boats which are not propelled by machinery, may be launched or retrieved from any beach area in the City except in a designated boat beaching area or boat launch zone. Boats or vessels in distress are exempted from the foregoing provided there is a verifiable emergency immediately threatening persons or property and provided the boat or vessel can reach the shore without further threatening the safety of other persons or property. The burden of proof that an emergency exists or existed rests with the owner and pilot or person in command of the boat or vessel.

*(Retitled to "Boat Beaching Areas and Boat Launching Zones, Beaching Prohibited Elsewhere" and amended 5-31-1994 by O-18073 N.S.)*

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**§63.20.10 Regulations For Use of Boat Launch Areas**

- (a) Boat launch zones are intended exclusively for the purpose of the expeditious launching and retrieval of boats and vessels. It is unlawful for any person to remain in or to interfere with the lawful launching or retrieval of boats and vessels in boat launch zones. Legally registered vehicles, including trailers, used for launching or retrieving boats or vessels shall not be obstructed. Vehicles shall not be left unattended in a boat launch zone and shall not be parked for periods in excess of five (5) minutes.
- (b) It is unlawful for any person to allow a vessel to be anchored, parked or left in a boat launch zone for any period in excess of fifteen (15) consecutive minutes and a total of (30) thirty minutes on any given day.
- (c) Repeated beaching and launching which would tend to obstruct beaching or launching by others is prohibited. In enforcing this Section, 63.20.10, enforcement personnel shall consider the attendance level at the time of the violation and shall not issue a notice of violation until a verbal warning has been issued and there has been a lack of compliance.

*(Retitled to "Regulations For Use of Boat Launch Areas" and amended 5-31-1994 by O-18073 N.S.)*

**§63.20.11 Camping, Sleeping Overnight Prohibited**

Unless specifically authorized by license or lease from the City, it is unlawful for any person, to remain overnight, or to erect, maintain, use, or occupy any tent, lodge, shelter, or structure on any public beach in this City, unless the tent, lodge, shelter, or structure has two sides open and there is an unobstructed view of the interior from the outside on at least two sides.

*(Retitled to "Camping, Sleeping Overnight Prohibited" and amended 5-31-1994 by O-18073 N.S.)*

**§63.20.12 Dogs Prohibited**

- (a) Except as provided in Sections 63.20.12(b), (d), and (e), it is unlawful for any person owning or having charge, care, custody, or control of any dog, whether leashed or unleashed, to be upon any public beach, any public park adjacent to a public beach, or any sidewalk adjacent to any public beach between the hours of 9 a.m. and 6 p.m. from April 1 through October 31, and between the hours of 9 a.m. and 4 p.m. from November 1 through March 31.

- (b) Except as provided in Sections 63.20.12(e), it is unlawful for any person owning or having charge, care, custody, or control of any dog to take, cause, permit, or allow such dog, whether leashed or unleashed, to be in Santa Clara Point Community Park, located at the 900 block of Santa Clara Place, east of Bayside Walk, in Mission Bay, between the hours of 9 a.m. and 6 p.m.
- (c) At all times when dogs are permitted to be in the areas and at the times specified in Section 63.20.12(a) and (b), the provisions of Section 62.669 of the County Code of the County of San Diego as adopted by Section 44.0300 of this Code shall apply.
- (d) Legally licensed dogs shall be allowed to go unleashed in Fiesta Island in Mission Bay Park or to the beach area at the west end of San Diego River Floodway, also known as the Ocean Beach Flood Control Channel, which areas are more specifically shown outlined in red on that map on file with the Office of the City Clerk of The City of San Diego as Document No. 740061.
- (e) Sections 63.20.12(a) and (b) do not apply to dogs that have been especially trained for and are used as guide, service, or signal dogs for the disabled while such dogs are being used for such purpose.

*(Amended 11-19-2001 by O-19008 N.S.)*

**§63.20.13 Rules to be Followed; Posting**

It is unlawful for any person, firm or corporation within the limits of any beach areas of The City of San Diego to do any act or acts contrary to the rules established by the Director for the use of the beach area, provided, however, that the rules shall be conspicuously posted in the beach area.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.20.14 Employee Exceptions**

Nothing in these Sections shall be construed to prevent any employee of the Park and Recreation Department from doing anything that in the opinion of the City Manager or of the Park and Recreation Director may be thought necessary and proper for the maintenance, improvement or betterment of said beach area, and further that nothing herein contained shall be construed to prevent any employee or agent of The City of San Diego from doing anything that in the opinion of The City Council may be thought necessary or proper for the best interests of The City of San Diego.

*(Retitled to "Employee Exceptions" and amended 5-31-1994 by O-18073 N.S.)*

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**§63.20.15 Vessel Speed**

It is unlawful for any person in command of any vessel to use it or permit it to be used at a speed in excess of five (5) miles per hour within one thousand (1,000) feet of the mean high tide line of the Pacific Ocean adjacent to the shoreline on the City of San Diego, with the following exceptions:

- (a) Vessels using a marked channel or boat launch area, designated by the City, the State, or the Federal Government, may travel at the speed designated for that area.
- (b) Persons licensed by the State of California for commercial fishing may travel within one thousand (1,000) feet of shore at speeds in excess of five (5) miles per hour while actively engaged in commercial fishing, provided, however, said persons must use extraordinary care to avoid injury to persons or property when operating a vessel at such speed in that area.
- (c) Surfboards with sails attached, commonly known as sailboards, may exceed five (5) miles per hour while using areas designated for surfing, pursuant to the relevant sections of the San Diego Municipal Code.
- (d) Employees of governmental agencies are exempt from this Section, 63.20.15, while acting in the course of their official duties.
- (e) This Section, 63.20.15, shall not apply to Mission Bay or San Diego Bay.  
*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.20.16 Fishing Piers Owned or Operated by the City of San Diego — Regulations**

- (a) It is the intent and purpose of the City Council of The City of San Diego in enacting this ordinance to provide for the use and enjoyment by the people of fishing piers by adopting regulations governing the conduct and behavior of persons using such piers to the end that these recreational facilities may be enjoyed by all.
- (b) It shall be unlawful for any person to perform any of the following acts on any fishing pier owned or operated by The City of San Diego:
  - (1) Operate a vehicle thereon without written permission from the Recreation Director, and in no event, at a speed in excess of five miles per hour.
  - (2) Use roller skates, or skate boards or ride a bicycle thereon.

- (3) Dive or jump or cause another person to fall, dive or jump from the pier into the ocean.
  - (4) Swim, wade, surf, or skin dive within seventy-five feet (75') of the pier.
  - (5) Climb on or across the pier railing.
  - (6) Cast any fishing line or pole overhead or allow any lure or hook to pass inboard of the pier railing while casting.
  - (7) Clean any fish except at locations provided for that purpose.
  - (8) Deposit trash, refuse or debris unless in a receptacle provided for such purpose.
  - (9) Use more than one pole or drop line at the same time.
  - (10) Permit any animal on the pier except a seeing-eye dog when accompanying a blind person.
  - (11) Surf cast from the beach or water within two hundred feet (200') of the pier.
  - (12) Fish or trap sea life for commercial purposes.
  - (13) Bring onto or have in his possession on the pier any fishing spear or fishing spear gun.
  - (14) Permit any vessel to approach within one hundred feet (100') of the pier without written permission of the Recreation Director.
  - (15) Kindle or maintain thereon any fire or bonfire for any purpose whatsoever, whether in an open brazier, hibachi pot, or otherwise, or use any heating, cooking or lighting device other than those employing electrical energy.
- (c) No goods, wares, merchandise or services of any kind or description shall be sold or offered for sale on any pier except at such places as shall be designated and licensed by the City.

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- (d) A violation of this ordinance shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the City Jail for a period of not more than six months or by both fine and imprisonment.

*(Amended 4-27-1977 by O-12058 N.S.)*

### **§63.20.18 Fishing Spears Regulated**

It is unlawful for any person to carry a fishing spear gun in a cocked or armed position on any public swimming area or within fifty (50) feet of a swimmer in the water or in any area where swimmers are present. All spears, barbs, prongs, and similar implements shall be sheathed, covered, or removed. A spear gun or similar instrument shall be deemed cocked or armed unless it shall be in a harmless condition and incapable of projecting spears, barbs, or prongs.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.20.19 Weapons, Firearms Prohibited**

It is unlawful for any unauthorized person to carry, display, or fire any weapon, gun, or firearm on any beach or waters adjacent thereto or in Mission Bay Park.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.20.20 Sale or Rental of Merchandise, Goods, Property, Etc. Prohibited; Exceptions**

It is unlawful for any person, firm or corporation to attempt to carry on or to carry on any commercial operation, to rent or sell merchandise of any kind, or to beach or moor any vessel for the purpose of displaying it for rental or sale, in any beach area, as defined in Section 63.20, including Mission Bay Park, unless licensed or otherwise specifically permitted to do so by the Director. This is specifically intended to include a commercial operation which involves delivering merchandise, a rental item, or a service to a beach area whether or not a financial transaction takes place within the beach area. Lessees and others who carry on a commercial operation under the terms of a formal agreement with the City are exempt from this section. Commercial fishers are permitted to use beach areas provided that their activity does not interfere with recreation.

If advertising of any kind, other than incidental advertising permanently affixed to the side of a vehicle, is displayed in the beach area, it shall constitute prima facie evidence that the actions of the person or persons, firm or corporation responsible for introducing said advertising within the beach area violate this section.

Persons convicted of this offense shall be punished by the following minimum fines:

First Offense— \$50.00

Second Offense— \$300.00

Third and future offenses— \$700.00

*(Retitled to “Sale or Rental of Merchandise, Goods, Property, Etc. Prohibited; Exceptions” and amended 5–31–1994 by O–18073 N.S.)*

**§63.20.21 Tampering with Boats or other Property Prohibited**

It is unlawful for any unauthorized person to mar, destroy, or move any boat or public or private property on any beach or waters adjacent thereto or in Mission Bay Park.  
*(Amended 5–31–1994 by O–18073 N.S.)*

**§63.20.22 Abandoning Boats and Other Property Prohibited, Mooring and Anchorage Regulated**

- (a) Except as otherwise permitted by this Code and except as may be permitted by the Director, it is unlawful:
- (1) To allow vessels, boats, vehicles, or trailers to remain unattended in any beach area, including the waters thereof and Mission Bay Park.
  - (2) To moor or anchor any vessel, or for the owner thereof to allow it to be moored or anchored, whether occupied or unoccupied, between the hours of ten (10:00) o'clock p.m. and seven (7:00) a.m. in any area of Mission Bay Park.
- (b) Any vessel, boat, vehicle or trailer left in violation of Section 63.20.22(a) may be removed by the Director without notice and any cost of removal and storage of said property may be recovered by The City of San Diego from the owner or any other person responsible for a violation of this Section, 63.20.22. Nothing herein shall prevent impounding of a vessel as may be authorized by the California Harbors and Navigation Code or by this Code.
- (c) Upon impounding a boat or vessel under the authority of Subsection 63.20.22(b), the Director shall, within ten (10) days of the impounding, send a registered letter to the owner of record advising of the impounding and what actions the owner may take to reclaim the property. If inadequate identifying information is available on the impounded property, no notification is required. If the owner of the property fails to appear within ninety (90) days of the impounding of the property and pay all fees, the property shall be

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subject to removal, destruction, sale, or other disposal by the Director at the expense of the owner or owners and without any liability for any damage to any property of the owner or owners.

- (d) Any sunken or abandoned rafts, wharves, buildings, or other obstructions found upon any beach area, including the waters thereof and Mission Bay Park, may be removed, destroyed, sold, or otherwise disposed of by the Director at the expense of the owner or owners and without any liability for any damage to any property of the owner or owners.

*(Retitled to "Abandoning Boats and Other Property Prohibited, Mooring and Anchorage Regulate" and amended 5-31-1994 by O-18073 N.S.)*

### **§63.20.23 Jumping Into Pacific Ocean or Mission Bay**

- (a) For Purposes of Section 63.20.23:

"Juvenile" means any person under eighteen years of age.

"Parent" means a person who is the natural or adoptive parent of an unemancipated juvenile. Parent includes a court-appointed guardian or other person eighteen (18) years of age or older, authorized by the parent, by a court order, or by a court-appointed guardian to have the care and custody of the unemancipated juvenile.

"Peace Officer" includes any person so designated by the California Penal Code and any City lifeguard authorized to enforce state and local codes pursuant to Municipal Code Section 63.20.8.

- (b) Offenses.

- (1) It is unlawful for any person to jump or dive, or attempt to jump or dive, into the Pacific Ocean or Mission Bay from either a natural or human-made point connected to land which is greater than five (5) feet above the mean level of the sea or water at the time of the jump or dive or attempted jump or dive.
- (2) It is unlawful for the parent of any juvenile to knowingly permit, or by insufficient control allow, the juvenile to be in violation of Section 63.20.23(b)(1).

(c) Enforcement Procedure.

(1) Upon any violation of this Section by a juvenile, a peace officer may issue a citation to the juvenile. If cited, the juvenile and a parent must appear in court as directed in the citation. The peace officer shall advise the parents that the juvenile was cited for a violation of San Diego Municipal Code section 63.20.23 and shall warn the parents of their parental responsibility and liability. The peace officer shall make a written record of the warning.

(2) Upon any subsequent violation of Section 63.20.23(b)(1) by the juvenile, a parent who has been warned previously pursuant to Section 63.20.23(c)(1) is guilty of a misdemeanor and shall be required to appear in court.

(d) Penalties. Any juvenile who violates Section 63.20.23(b)(1) is guilty of an infraction. Any other person who violates Section 63.20.23(b)(1) is guilty of a misdemeanor. In addition to any other penalty imposed by the court, any person convicted of violating this Section shall pay a fine of no less than \$100.00 or be required to perform public works service or community service, or both. The parents of juveniles who violate this Section are strictly liable for ensuring payment of the fines assessed.

*(Amended 5-28-1996 by O-18310 N.S.)*

**§63.20.24 Floats Prohibited In La Jolla Cove**

Except for the purpose of effecting a rescue, it is unlawful for any person to introduce into or upon the waters of La Jolla Cove any floating object, such as a body board, foam object, ball, life preserver or other similar device, which is used or could be used to assist in the floatation of a person. This Section, 63.20.24, does not prohibit scuba divers from using wetsuits, swim fins or inflatable devices.

*(“Floats Prohibited In La Jolla Cove” added 5-31-1994 by O-18073 N.S.)*

**§63.20.28 Endangering Aquatic Activities**

No person shall use any surfboard, paddleboard, bellyboard, skim board, ski, canoe, boat or vessel of any type, or any similar device in a negligent manner so as to endanger the life, limb or property of another person.

*(“Endangering Aquatic Activities” added 3-24-1976 by O-11819 N.S.)*

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**§63.25 Mission Bay Regulations — Power to Designate Officials**

Whenever a power is granted to, or a duty is imposed upon the Park and Recreation Director, the power may be exercised, or the duty may be performed by the Director or by the individual or individuals whom he or she may designate for the enforcement of these regulations.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.1 Same — Definitions**

“Commercial Vessel” includes any vessel which is licensed as a commercial vessel, is offered or used for charter parties, for hire, or for any commercial purpose whatever or for the use or enjoyment of which a fee is exacted by the owner or person in control thereof, during the calendar year in which the use or event occurred as above described; provided, however that the Director or designee may change such classification if the Director has good cause to believe that the vessel is to be used in the future for purely recreational purposes.

“Designated Anchorage Areas” includes the areas more particularly described in Sections 63.25.14 and 63.25.15 or established pursuant to Sections 63.25.2 and 63.25.3 and shall include every mooring, pier, float, wharf, dock, or landing within such areas and the shoreline thereof together with the approaches thereto.

“Float” includes wharf, pier, quay, or landing.

“Mission Bay Park” includes all waters of Mission Bay together with channels of ingress and egress and all beaches and City-owned land fronting on said waters. Mission Bay and the waters of Mission Bay for purposes of Chapter 6, Article 3, are defined to be all water areas within the limits of Mission Bay Park.

“Mooring” includes any weight, chain, rope, float, structure and/or appliance used by a vessel for anchoring purposes, and which is not carried aboard such vessel as part of its regular equipment.

“Personal Watercraft” means a motorboat, as defined in the California Harbors and Navigation Code, powered by a jet drive, which is under thirteen (13) feet in length, designed by the manufacturer to be capable of speeds in excess of fifteen (15) miles per hour, and designed to be operated by a person sitting, standing, or kneeling on, or being towed behind, the device, rather than the conventional manner of sitting or standing inside the vessel.

“Vessel” includes every description of watercraft used or capable of being used as a means of transportation on water.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.2 Authority to Park and Recreation Department; Harbormaster Designated**

The Park and Recreation Department shall be the City's supervising agency for the regulation and supervision of Mission Bay Park and of the vessels using Mission Bay; and the Park and Recreation Department shall, through its Director, be responsible for the regulation of commercial and recreational use of Mission Bay by vessels and for the enforcement of Chapter 6, Article 3. The person in charge of the Lifeguard Services Division of the Park and Recreation Department is hereby designated as the Mission Bay Harbormaster.

*(Retitled to "Authority To Park and Recreation Department; Harbormaster Designated" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.3 Power and Authority of Park and Recreation Director**

The Park and Recreation Director shall have the authority:

- (a) To create or establish additional designated anchorage areas within which vessels of different sizes and classes shall be anchored or moored.
- (b) To assign anchorage or moorings to vessels within such designated areas.
- (c) To assign berths or landing places to vessels coming alongside of floats, wharves and piers.
- (d) To order any vessel improperly anchored, moored, or berthed to change its position to such a one as he may designate, and, in case his orders are not complied with, to cause such vessel to be so moved without liability to the owner for any damage thereto and to collect the cost of such moving from said vessel or owner thereof.
- (e) To recommend to the City Manager a schedule to cover all fees and charges applicable to the operation of Mission Bay Park. Said schedule shall be effective when approved by the City Manager.
- (f) To perform or delegate such other duties as may be required for the operation of this area in accordance with provisions of this section.

*(Retitled to "Power and Authority of Park and Recreation Director" on 5-31-1994 by O-18073 N.S.)*

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**§63.25.4 Vessel Speed**

- (a) It is unlawful to operate a vessel upon Mission Bay at a speed greater than five (5) nautical miles per hour between sunset and sunrise.
- (b) In order to assure greater safety for all citizens using the Mission Bay recreational facilities, the Director may establish prima facie speed limits for any area or areas of Mission Bay by posting such limits in or at the entrances to such areas. When areas are so posted, the speed limits shall be as fully effective as if specified herein.
- (c) The speed limit shall be five (5) nautical miles per hour in the following areas:
  - (1) Within one-hundred (100) feet of the shoreline of Mission Bay; provided, however, that this subsection, 63.25.4(c), shall not apply in water areas designated for a single, special use including areas designated for the exclusive use of personal watercraft, water skiing, a special event or areas designated for water ski take-off and landing.
  - (2) Within one-hundred (100) feet of another vessel, a swimming flat or platform, or a lifeline.
  - (3) Under bridges.
- (d) The speed of any vessel in excess of the limits specified in the preceding subsection 63.25.4(c), or limits established and posted pursuant to the preceding subsection 63.25.4(b), is unlawful and a violation of this Section, 63.25.4, unless the operator establishes by competent evidence that any speed in excess of said limits did not constitute a violation of the basic speed rule declared in the California Code of Regulations, Title 14, Section 6615 at the time, place and under the conditions then existing.
- (e) These regulations shall not apply to City-owned, operated, or commandeered vessels; and the basic speed law, but not the speed limits, shall apply to vessels contending in a race pursuant to Section 63.25.11 when such vessel is being operated within the scope of the permit for said race.

*(Retitled to "Vessel Speed" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.5 Jumping From Bridges, Swimming in Channel, Obstructing Navigation**

Within the limits of Mission Bay Park, it is unlawful for any person to:

- (a) Jump or dive from any bridge, or cause another person to jump or dive from any bridge, or to climb upon or under any bridge except in places specifically designated for pedestrian traffic; or dive or swim in the waters under or within seventy-five (75) feet of any bridge;
- (b) Fish by hand line, rod or spear from any bridge, within any marked water ski landing or take-off area, or within any marked swimming area;
- (c) Swim, dive or play in the Mission Bay ocean channel, the turning basin or on or from breakwaters adjacent to the channel or on or from any traffic structure, bridge construction equipment, or appurtenance not specifically provided for such activities or in any water ski take-off or landing area.
- (d) Swim, dive or play in any waters not specifically designated for these activities in a manner which might tend to hinder the safe navigation of any vessel.
- (e) Swim, dive or fish in any water area designated by the Park and Recreation Department for exclusive use of personal watercraft or water skiing, so long as the area is marked by signs, buoys or both signs and buoys.

*(Retitled to "Jumping From Bridges, Swimming in Channel, Obstructing Navigation" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.6 Water Skiing**

- (a) No water skier, aquaplaner, free-boarder, or other person being towed behind a vessel and the towing vessel therefor may operate within one hundred (100) feet of another boat, canoe, paddleboard, float, swimmer, person fishing, or the beach except when taking off or landing in prescribed areas posted for this purpose.
- (b) In areas prescribed for water skiing, all motorized vessels shall adhere strictly to a counterclockwise pattern regardless of the number of vessels in the area, and shall be subject to the control and supervision of the authorized representative of the City.
- (c) It is unlawful for the operator of any vessel, with the exception of a vessel actively engaged in water skiing, to allow the vessel to enter within two hundred (200) feet of the shoreline of a designated water ski landing or take-off area.

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- (d) It is unlawful for any person to operate any vessel or device which tows a water skier and which is operated or controlled by the water skier.

*(Retitled to "Water Skiing" and amended 5-31-1994 by O-18073 N.S.)*

### §63.25.7 Sirens and Mufflers

- (a) It is unlawful to sound or operate or cause to be sounded or operated a siren on a vessel within the limits of Mission Bay Park. This provision shall not apply to City-owned, operated, or commandeered vessels. This section, 63.25.7, shall not preclude vessels from being provided with sound-producing devices as required by the appropriate Coast Guard regulations.
- (b) Except as provided in Section 63.25.11, every watercraft equipped with an internal combustion engine operated on Mission Bay shall at all times be equipped with an adequate muffler, in constant operation and properly maintained to prevent any excessive or unusual noise, and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device.

*(Retitled to "Sirens and Mufflers" and amended 5-31-1994 by O-18073 N.S.)*

### §63.25.11 Races

It is unlawful for any person to conduct or take part in any race, demonstration, or exhibit of any kind that interferes with the free use of the Mission Bay area, unless a written permit for such event designating the prescribed area to be used has first been procured from the Park and Recreation Department. The Director may grant special permits to hold a boat race in the course of which unmuffled engines may be used by the contestants upon the waters of Mission Bay along and over certain courses situated in the waters of Mission Bay; and provided further that any such special permit of the Director shall be for a period of time not exceeding ten (10) days in all of any calendar year hereafter, and shall not exceed eight (8) hours of any calendar day, the entire period of time for which such special permit is granted to fall between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.

In addition to the aforementioned 10 day permit, the Director may issue a permit for unlimited hydroplane racing, provided such permit shall be for a period of time not exceeding four (4) additional days in any calendar year, and shall not exceed eight (8)

hours of any calendar day, the entire period of time for which the permit is granted, to fall between eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m., and provided further that the racing is approved in all other respects by reviewing authorities. In the event the additional four (4) days are not used for unmuffled hydroplane racing, they may not be utilized for any other unmuffled boat racing activity. Such hydroplane racing shall take place only during the four-day period designated by the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

#### **§63.25.12 Launching and Removal of Vessels**

It is unlawful to launch or remove from the waters of Mission Bay any vessel over any seawall, sidewalk, street end, public or private property, except at such locations designated for that purpose, or at such locations making a regular business of launching and hauling vessels and having the necessary equipment to do such work, without first obtaining permission from the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

#### **§63.25.13 Display of Vessels for Sale**

Within the limits of Mission Bay Park, it is unlawful to beach, moor, or dock any vessel, or to park any trailer carrying a vessel for the purpose of displaying such vessel for sale, unless a permit to do so has first been obtained from the Park and Recreation Department. A sign or other marking on any such vessel indicating that it is for sale shall be prima facie evidence that the vessel was so placed for the purpose of displaying it for sale. Manager upon the recommendation of the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

#### **§63.25.14 Anchorage, Beaching and Mooring Areas**

- (a) The anchorage or mooring areas designated exclusively for recreational vessels are as follows:
- (1) The area commonly know as San Juan Cove, located on the west side of Mission Bay, between Santa Clara Point and El Carmel Point.
  - (2) The area commonly known as Santa Barbara Cove, located on the west side of Mission Bay, between El Carmel Point and Gleason Point (also known as Bahia Point).
  - (3) The area commonly know as De Anza Cove, located at the northeast corner of Mission Bay north of De Anza Point.

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- (b) The anchorage or mooring area designated for recreational or small commercial vessels is in the area commonly known as Mariner's Basin, located on the southwest side of Mission Bay, just north of the Mission Bay ocean channel.
- (c) The beaching areas designated exclusively for recreational vessels are the beaches adjacent to:
- (1) The area commonly known as Santa Clara Cove, located on the northwest side of Mission Bay;
  - (2) The area commonly known as San Juan Cove, located on the west side of Mission Bay;
  - (3) The area commonly known as Santa Barbara Cove, located on the west side of Mission Bay;
  - (4) The area commonly known as Mariner's Basin, located on the southwest side of Mission Bay;
  - (5) The area commonly known as Sail Bay at the point that Fanuel Street ends at Sail Bay;
  - (6) The area commonly known as Riviera Shores at the point that Moorland Drive ends at Riviera Shores.
- (d) Notwithstanding any other provisions of this Code, the Director has the authority to determine and establish rules and regulations specifying the size and type of vessels using the anchorage, beaching and mooring areas.  
*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.17 Anchorage and Mooring Location**

It is unlawful for any person having charge of any vessel to moor or anchor the same in Mission Bay except within the areas and at the place or places designated by the Director. Any vessel which is moored or anchored in Mission Bay at a place not designated for such vessel by the Director shall, upon the demand of the Director, be forthwith moved to a designated area. In the designation of areas and places for the mooring or anchoring of vessels, the Director shall consider the needs of commerce, the utilization of turning basins for the turning of vessels, the use of channels for the moving and navigation of vessels, and the economy of space. No vessel shall be

moored and anchored in any part of any turning basin or channel unless it is securely moored, both fore and aft. Every vessel moored or anchored in any part of Mission Bay outside of any turning basin or channel shall be moored or anchored to prevent it from swinging or drifting into any turning basin or channel.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.18 Change of Mooring**

If any vessel arriving and anchoring or being moored or fastened to any wharf or other vessel in Mission Bay shall be so moored or placed as to be unsafe or dangerous to any other vessel previously lying at anchor in said Mission Bay, or moored or fastened as aforesaid, the Park and Recreation Director is hereby authorized and directed forthwith to order and direct the position of said vessel to be changed in such manner as to obviate such insecurity or danger, and the Master or other person having charge of such vessel shall forthwith cause the position of such vessel to be changed as directed by the Park and Recreation Director, and upon the failure or refusal of such Master or other person in charge of such vessel to so change the position of said vessel, it shall be the duty of the Park and Recreation Director to forthwith board such vessel with such assistance as may be necessary and change the position of such vessel as had previously been directed by him, and the expense of changing the position of such vessel or of arranging the rigging thereon may be recovered from the Master or owner of such vessel by a suit in the name of The City of San Diego in any court of competent jurisdiction.

*(Retitled to "Change of Mooring" on 5-31-1994 by O-18073 N.S.)*

### **§63.25.19 Making Fast a Moored Vessel**

It is unlawful to make fast or tie any vessel to a mooring occupied by another vessel, or to make fast or tie to a vessel already occupying a mooring; provided, however, that rowboats and yacht tenders regularly used by vessels for transportation of persons or property to or from shore may be tied to any such mooring or vessel.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.20 Obstruction of Passage**

It is unlawful to tie up or anchor a vessel in Mission Bay in such a manner as to prevent or obstruct the passage of other vessels or to voluntarily or carelessly sink or cause to be sunk any vessel in any channel or to float loose timbers, logs, or piles in any channel in such a manner as to obstruct, impede, or injure navigation; whenever a vessel is wrecked or sunk in Mission Bay, accidentally or otherwise, it is the duty of the owner to immediately mark it by a buoy during the day and by a lighted lantern at

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night and to maintain such markings until the sunken vessel or obstruction is removed; the neglect or failure of the owner to do so is unlawful. The owner shall immediately commence the removal of the obstruction and prosecute the removal diligently to completion, and any failure to do so shall constitute an abandonment of the vessel. Whenever the navigation of any navigable water within Mission Bay Park is obstructed or endangered by any vessel or other obstruction, which has existed for a period longer than ten (10) days, or whenever the abandonment of a vessel or other obstruction can be legally established in a shorter period of time, the vessel or other obstruction is subject to be removed, sold, or otherwise disposed of by the City Manager at his or her discretion without liability for any damages to the owners.

Any costs incurred by the City in the removal of any vessel or other obstruction, may be recovered by the City from the owner of such vessel or the person causing or responsible for the obstruction, in any court of competent jurisdiction.

*(Amended 5-31-1994 by O-18073 N.S.)*

#### **§63.25.22 Mooring Permit Required**

It is unlawful to place, erect, construct, or install moorings in Mission Bay Park without a permit issued by the Director. Moorings must conform to the requirements and specifications set forth by the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

#### **§63.25.24 Cancellation or Revocation of Mooring Permit**

Any mooring permit issued by the Director shall provide that the permit may be canceled at any time by the Director by giving five (5) days written notice by mail sent to the person to whom the permit was issued at the address listed on the permit; and upon the permit being canceled, it is the duty of the owner of the mooring to immediately remove it. If the owner should fail to collect or refuse to move the mooring within ten (10) days, it may be removed by the Director at the expense of the person to whom the permit was issued, and the cost may be collected in any court of competent jurisdiction. Any impounded mooring not claimed by the owner within thirty (30) days becomes the property of The City of San Diego. The permit shall further provide that the Director has the discretion to permit any vessel to use an unoccupied mooring on a temporary basis; and that any mooring not used by the owner for a period of six (6) consecutive months out of any twelve (12) months becomes the property of the City and may be removed, used, rented, or sold by the Director with or without notice at the Director's option, and the Director may then cancel or revoke the permit.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.25 Mooring Permit Fees**

The owner of every vessel in the designated anchorage areas having a mooring shall pay the City an initial permit fee payable upon issuance of a permit, and thereafter shall pay the City a yearly fee to be paid on the first business day of March of each year, to be effective for the following twelve month period. The permit shall specify that it is the responsibility of the recipient of the permit to pay the annual fee if the recipient wishes to renew the permit and the City shall not be required to send a reminder notice to that effect.

The mooring permit shall further provide that if the owner fails to renew on the annual date specified and is in arrears for a period of seven (7) days, the Director shall, unless extraordinary circumstances exist, impound the mooring and make the space available, using normal procedures, to any other person who qualifies for a permit. The owner of an impounded mooring who wishes to claim it shall be charged a fee for the removal and storage of the mooring. If the owner fails to claim the mooring within a thirty (30) day period, the title to that mooring shall pass to The City of San Diego.

The amount of the fees herein required shall be established by the City Manager upon the recommendation of the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.26 Unused Moorings**

The Director may assign unused moorings to visiting vessels for a rental fee established by the City Manager upon the recommendation of the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.28 Taxes on Moored Vessels**

Any applicant for a permit shall acknowledge that the vessel to be anchored or moored within the designated mooring areas shall be assessed in The City of San Diego and that the applicant shall pay all taxes on the vessel to The City during the time that the mooring is maintained in The City of San Diego.

*(Retitled to "Taxes on Moored Vessels" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.29 Contents of Permit**

- (a) Owners of vessels using private moorings in Mission Bay Park must first obtain a permit from the Park and Recreation Department, shall be limited to

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the designated anchorage and mooring areas established by the City, and shall conform to the rules and specifications established for such areas.

- (b) Permits for moorings will be issued to an individual person for a period of one year, on a renewable basis. Neither the permit nor the space for which the permit is granted is transferrable.
- (c) Any permit issued under the terms of this Section shall be personally signed by the applicant, and shall contain the rules and specifications established by the Director.
- (d) The fees for any services provided for in the rules and specifications shall be established by the City Manager upon the recommendation of the Director.  
*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.30 Installation of Privately-Owned Moorings**

Upon request of the owner and at the discretion of the Director, privately-owned moorings may be installed by City forces at a rate established by the City Manager upon the recommendation of the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.31 Use of Moorings**

- (a) It is unlawful for any vessel other than that described in the mooring permit to use any private mooring in Mission Bay; and the vessel must be owned, in whole or in part, by the person to whom the permit was issued.
- (b) It is unlawful for any person, other than the Director, to give permission for any non-permitted vessel to use a private mooring.

*(Retitled to "Use of Moorings" and amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.43 Construction and Rental of Harbor Facilities Authorized**

The City may construct or cause to be constructed such floats wharves, piers, and other harbor facilities in Mission Bay Park as may be required by the public interest, and the City may rent or lease in whole or in part such floats, wharves, piers, and other harbor facilities to individuals, nonprofit associations, and such other organizations as it may determine. The City may further establish by resolution a schedule setting forth the charges for the use of said floats, wharves, piers, and other harbor facilities, which use shall be governed by the terms of the rental or lease

agreement executed by the City, and any applicable provisions of this Code.  
(Amended 5-31-1994 by O-18073 N.S.)

**§63.25.45 Information Required for Berthing Space**

No permit shall be issued by the Park and Recreation Director for a berthing space at any float, wharf, pier or other harbor facility until the applicant shall have submitted to said Park and Recreation Director the length, width and type and occupation of vessel which is to occupy said berthing space.

(Retitled to "Information Required for Berthing Space" on 5-31-1994 by O-18073 N.S.)

**§63.25.47 Use of Harbor Facility**

- (a) It is unlawful for any owner or any person having charge of any vessel to make such vessel fast, whether directly or indirectly, to any float, wharf, pier, or other harbor facility with the exception of those specifically designated for use by the general public, without the consent of the lessee, agent or person in charge of the float, wharf, pier, or harbor facility.
- (b) It is unlawful for any owner or any person having charge of any vessel to permit it to remain fastened to any float, wharf, pier, or dock in Mission Bay Park, or to remain moored immediately in front thereof, after the user or users of the vessel have finished loading or unloading at such float, wharf, pier, or dock, without obtaining the consent of the owner, agent or person in charge of the float, wharf, pier, or dock.

(Retitled to "Use of Harbor Facilities" and amended 5-31-1994 by O-18073 N.S.)

**§63.25.50 Head and Stern Lines, Chafing Gear Required**

Every vessel lying at any float, wharf, pier or other harbor facility shall be fastened thereto with such head and stern lines from both bow and quarters in such a manner as to meet the approval of the Park and Recreation Director, and the owner of every such vessel shall provide suitable and sufficient chafing gear to prevent damage to the structure to which it is secured.

(Retitled to "Head and Stern Lines, Chafing Gear Required" and amended 5-31-1994 by O-18073 N.S.)

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**§63.25.51 Handling Explosives; Permit Required**

It shall be unlawful for any person to unload gunpowder, dynamite, or any other high explosive from any vessel to or upon any wharf or pier in Mission Bay, or to load the same from any wharf, or pier upon any vessel, without first obtaining a permit so to do from the Park and Recreation Director, paying therefor a fee and otherwise complying with all the rules and regulations governing the loading and unloading of high explosives.

*(Retitled to "Handling Explosives; Permit Required" on 5-31-1994 by O-18073 N.S.)*

**§63.25.52 Petroleum Products Regulated**

The storage, handling, keeping, use or sale of gasoline, distillate, or any liquid petroleum products on floats, wharves, piers and other harbor facilities is unlawful and strictly prohibited. Sale of said petroleum products may be made only from specific locations designated by The City of San Diego. Sale or delivery of such products to vessels in such areas shall be made by means of pipe lines and hose, suitably equipped and provided with closed connections and valves between pipe line and hose to be approved by the Park and Recreation Director and the Chief of the Fire Department of The City of San Diego.

*(Retitled to "Petroleum Products Regulated" on 5-31-1994 by O-18073 N.S.)*

**§63.25.53 Containers for Inflammable Products Regulated**

It is unlawful for any person to cause empty drums, tanks, barrels, or other containers used for the storage or transportation of gasoline, distillate, kerosene, or other inflammable products to remain on any float, wharf, pier, or other harbor facility, or the shoreline, roadways, parkways, or any property in Mission Bay Park.

*(Retitled to "Containers for Inflammable Products Regulated" on 5-31-1994 by O-18073 N.S.)*

**§63.25.54 Donkey Engine; Spark Arrester Required**

It is unlawful for any person to use any donkey engine or other steam engine for any reason on any wharf, dock, pier, or vessel in Mission Bay without a bonnet or spark arrester attached to the smoke stack of such engine so as to prevent sparks from coming in contact with wharf or vessel.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.55 Public Piers Authorized**

Floats, wharves, piers and other harbor facilities may be maintained by the City, and such harbor facilities shall be available for the loading and unloading of passengers, supplies, boating gear and for similar purposes and in such manner as will best serve the public use thereof and avoid congestion and the blocking of other facilities. However, the loading and unloading of passengers, supplies, boating gear shall not be construed so as to include the handling of commercial cargo, in any manner which is unlawful and strictly prohibited. The Park and Recreation Director shall have the authority to control the use of any and all facilities and to regulate the time and manner of said use for the purpose of maintaining said facilities available to the public.

*(Retitled to "Public Piers Authorized" on 5-31-1994 by O-18073 N.S.)*

**§63.25.56 Obstruction of Public Pier or Facility Prohibited**

It is unlawful for any person to obstruct the free and easy access to and departure from any portion of any public float, wharf, pier, or other harbor facility at any time; and it is unlawful to obstruct the land site of any public facility with automobiles or any other vehicle or gear; and the Director shall cause to be impounded at the expense of the owner any automobile or any other vehicle or gear which shall obstruct such public facilities.

*(Retitled to "Obstruction of Public Pier or Facility Prohibited" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.57 Waste Materials Upon Shore Line Prohibited; Penalty**

It is unlawful to allow any materials, including but not limited to garbage, refuse, timbers, or waste matter of any description, to remain upon the shorelines of Mission Bay Park; and the Director may remove same with or without notice, and any cost of removal may be recovered by the City against any person responsible therefor in any court of competent jurisdiction. Violations of this provision is a misdemeanor.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.58 Construction of Private Piers**

It is unlawful for any person, firm, corporation, or association to build, or cause to be built or extended, any public or privately-owned float, wharf, pier, landing bulkhead, seawall, or structure, of any sort whatever, or make, or cause to be made, any filling of any description in Mission Bay Park. It is also unlawful for any person to dredge or excavate within Mission Bay Park for the benefit or use of any private person, firm,

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corporation, or association unless plans showing the proposed work have been approved by the City Manager, and a permit issued therefor.

*(Amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.59 Private Piers or Wharves — Defective Condition**

If the Director learns that any wharf, dock, or pier on Mission Bay is in such a defective or dangerous condition that life or property is endangered thereby, the Director shall immediately notify in writing the owner thereof, or the agent, lessee, or any other person or persons having charge of the same, of the defective and dangerous condition, and shall require such person or persons to immediately repair the same, or to erect fences or other barriers to prevent persons from using or going upon the wharf, dock, or pier. If the person or persons having charge of the wharves, docks, or piers fails or neglects to repair it or to erect fences or other barriers, then the Director may erect fences or other such barriers as may be deemed necessary for the protection of the public, and charge the expense to the person or persons having charge of the wharf, dock, or pier. It is unlawful for any person or persons to interfere whatsoever with any fence or barrier erected to prevent the use of the defective wharf, dock, or pier.

If any wharf, any portion thereof, or any material on such wharf, falls into the waters of Mission Bay, it is the duty of the owner, agent, or lessee of the wharf to forthwith remove such material from the waters of Mission Bay, and, if they fail to do so, the Director may remove or cause the material to be removed; and the cost of the removal is recoverable from the owner, agent, or lessee by the City.

*(Retitled to "Private Pier or Wharves — Defective Condition" and amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.61 Discharge of Inflammable Material**

It is unlawful for any vessel to pump, discharge, or dump into the waters of Mission Bay, oil, spirits, gasoline, distillate, or any other petroleum products, or any inflammable material whatsoever, or to deposit any refuse matter, rubbish, or articles of any offensive nature upon any float, wharf, pier, or upon any shoreline roadway or parkway.

*(Retitled to "Discharge of Inflammable Material" on 5-31-1994 by O-18073 N.S.)*

### **§63.25.62 Discharge of Petroleum Products**

It is unlawful to discharge, deposit, or cause or allow to be discharged, deposited, to pass in or into the waters of Mission Bay, any coal tar, refuse or residuary products of coal, petroleum, asphalt, bitumen, or any other carbonaceous material or substance.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.67 Entering Watercraft Without Permission of Owner**

It is unlawful to enter or climb into or upon any boat, vessel, yacht, or water craft moored, tied or anchored in Mission Bay, without the consent of the owner or operator of said vessel.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.68 Tampering with Moorings Prohibited**

It is unlawful to tamper with, or in any way interfere with the moorings or anchorages of any boats, vessels, yachts, or other water craft in Mission Bay.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.25.70 Vessel Passage Regulated — Mission Bay Park Bridges**

- (a) Purpose and Intent. It is the purpose of this section to provide for the regulation of the passage of vessels under the Mission Bay Park bridges in order to regulate clearances and to prevent collision by vessels with the bridges or any portions of the structures.
- (b) Any vessels having a beam of greater than thirty (30) feet or having less than two (2) feet of vertical clearance (flexible radio antennas excepted) at the time of passage are prohibited from passing under any of the Mission Bay Park bridges without prior written permission of the Park and Recreation Director, or his designated representative, under the terms and conditions imposed by him.

The owner of any vessel greater than twenty-five (25) feet in length colliding with said bridge or bridges and the owner of any vessel regardless of size which damages said bridge or bridges shall immediately report such collision and/or damage to the Park and Recreation Department's Mission Bay Park headquarters.

*(“Vessel Passage Regulated— Mission Bay Park Bridges” added 1-14-1964 by O-8947 N.S.)*

**§63.25.71 Living on Board Vessels, Overnight Anchorage Regulated**

- (a) It is unlawful for any person to remain overnight on board any vessel in Mission Bay Park unless the vessel has a functional, self-contained toilet on board that does not discharge into the waters of the Bay. It is unlawful for any owner of any vessel to occupy it or allow it to be occupied overnight in Mission Bay Park for a period of more than ninety (90) days, whether

successive or cumulative, during any one calendar year. A vessel is presumed to be occupied overnight when there are one or more persons on board after midnight. The lessees of land in Mission Bay Park are primarily responsible for the enforcement of this subsection, 63.25.71(a), on the water abutting their leased lands.

- (b) It is unlawful for any owner or person in command of any vessel to allow it to be left anchored or moored overnight upon the waters of Mission Bay unless the owner or person in command has received permission from the Director or, in the case of property within a leasehold, from a lessee under the terms and conditions of the lease. In the area of Mariners Basin, a vessel may be permitted to remain moored or anchored for a period not to exceed seventy-two (72) hours during any seven (7) consecutive days, provided that the owner or person in command of such vessel has first received permission from the Director and provided that at least one person of eighteen years or older remains on board from dusk to dawn. Permission to moor or anchor in Mariners Basin will be partially based on capacity of the area.
- (c) The Director may without notice remove any vessel, boat or trailer stored or left in violation of subsection 63.25.71(b), and the cost of removal and storage may be recovered by the City against any person responsible therefor through collection processes or proceedings in any court of competent jurisdiction and in any case prior to release of the impounded vessel to the registered owner or the authorized agent thereof.

*(Retitled to "Living on Board Vessels, Overnight Anchorage Regulated" and amended 5-31-1994 by O-18073 N.S.)*

### **§63.25.72 Regulation of Para-Sails and Similar Devices**

- (a) It is unlawful for any person to use a hang glider, para-sail, ski-kite, or similar device which may be used to lift a person from the water or land in Mission Bay Park except by special permit issued by the Director.
- (b) For purposes of this section, 63.25.72, the following definitions apply:

"Hang glider" means any delta-wing kite used as an air foil to elevate a person by a tow line.

"Para-sail" means any multi-vented sail used to elevate a person by a tow line.

"Ski kite" means any kite used to elevate a person by a tow line.

*(Retitled to "Regulation of Para-Sails and Similar Devices" and amended 5-31-1994 by O-18073 N.S.)*

**§63.25.73 Overnight Storage of Vessels, Boats, and Trailers Prohibited**

- (a) It is unlawful to store or leave any vessel, boat, or trailer on the beach on the west, north, and east shoreline of Mission Bay Park between Santa Clara Point and the Ingraham Street Bridge between the hours of 10:00 p.m. to 7:00 a.m., except where permitted by the Director at an authorized beach mooring bar or facility. This prohibition shall not apply between 10:00 p.m. Friday night through 7:00 a.m. Sunday morning, nor from 10:00 p.m. of the night preceding an official holiday of the City through 7:00 a.m. on the day of the holiday.
- (b) The Director may without notice remove any vessel, boat, or trailer stored or left in violation of Section 63.25.73(a), and the cost of removal and storage may be recovered by the City against any person responsible therefor through collection processes or proceedings in any court of competent jurisdiction.
- (c) Persons using vessels in designated beaching areas, established and posted as such by the City, must first obtain a permit from the Park and Recreation Department, and shall conform to the rules and specifications established for such areas by the Department.
- (d) Permits for using designated beaching areas will be issued for a period of one (1) year, on a renewable basis, and are nontransferable. The permit shall provide that it may be canceled at any time by the Director by giving five (5) days written notice by mail to the person at the address registered on such permit; and upon said permit being canceled, it shall be the duty of the owner of the vessel to immediately remove it, and if the owner should fail to collect or refuse to remove the vessel within ten (10) days, it may be removed or impounded by the Director.
- (e) The owner of every vessel having a permit to use a designated beaching area shall pay the City of San Diego an initial permit fee payable upon issuance, and a yearly fee thereafter, to be paid on the first business day of March each year. The fees specified herein shall be established by the City Manager upon the recommendation of the Director.

*(Amended 5-31-1994 by O-18073 N.S.)*

**§63.30 Utilization of the Environmental Growth Fund**

Pursuant to the Environmental Growth Fund provision of the San Diego Charter section 103.1a, it is incumbent upon the City Council of the City of San Diego to use moneys derived from that fund exclusively for the purpose of preserving and enhancing the environment of the City of San Diego.

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The City Council of the City of San Diego, in implementing said Charter provision, shall allocate all moneys within the fund not employed to pay the debt service on bonds, as set forth in San Diego Charter section 103.1a as follows:

- (a) The difference between two-thirds of the Environmental Growth Fund and the amount actually necessary to make principle and interest payments on outstanding open space bonds shall be accumulated and utilized solely for the purpose of providing funds for the acquisition of open space lands.
- (b) The remaining one-third of the Environmental Growth Fund shall be used for the purpose of preserving and enhancing the environment and shall be allocated to utilization each year, by the City Council, during the budget process, in accordance with the following priorities:
  - (1) Open space maintenance, including litter removal and control;
  - (2) To provide matching funds for acquiring open space in cooperation with other private or governmental entities;
  - (3) Regional Park maintenance;
  - (4) Any other purposes consistent with the San Diego Charter section 103.1a.
- (c) The City Manager of the City of San Diego shall prepare, for approval by the City Council, regulations for the administration of the open space matching grant program.
- (d) If the City Manager determines that anticipated revenues in any fiscal year will be insufficient to maintain existing City services necessary for preserving and enhancing the environment, the City Manager may ask the City Council to temporarily suspend compliance with this Section in order to allow Environmental Growth Funds to be allocated consistent with San Diego Charter section 103.1a. A majority vote of the City Council can temporarily suspend compliance with this Section for that fiscal year. Creating a mechanism for the suspension of this Section is necessary to prevent the abrogation of duties, obligations, and prerogatives of the City Council in the preparation and passage of the Annual Appropriation Ordinance pursuant to San Diego Charter section 71.

*(Amended 3-17-2003 by O-19159 N.S.)*

**§63.40 San Diego — La Jolla Underwater Park Ecological Reserve — Boating Regulations****(a) Definitions**

- (1) As used herein, the San Diego — La Jolla Underwater Park Ecological Reserve is all that portion of District 19 consisting of the Pacific Ocean and tide and submerged lands lying within the boundaries of the City of San Diego, County of San Diego, State of California beginning at the most northerly point of Alligator Head Point as shown on La Jolla, Map 352 filed in the office of the County Recorder of said County; having a latitude of 32 degrees 51' 04", and a longitude of 117 degrees 16' 20", thence northeasterly to a point having a latitude of 32 degrees 51' 13" north and a longitude of 117 degrees 16' 10" west, thence northerly to a point being the intersection of longitude 117 degrees 16' 15" west with the westerly prolongation of the southerly line of Pueblo Lot 1298 as shown on the map of Pueblo Lands of San Diego made by James Pascoe, known as Miscellaneous Map No. 36 filed in the office of the County Recorder of said County; thence easterly along said prolongation of the southerly line of Pueblo Lot 1298 to the intersection with the Mean High Tide Line; thence in a generally southerly direction along said Mean High Tide Line to the point of beginning, as established by license agreement between The City of San Diego and the State of California pursuant to Council Resolution No. R-253779, adopted March 16, 1981.
  - (2) As used herein, the terms "vessel" or "boat" are as defined in Harbors and Navigation Code section 651 and shall include motorized and non-motorized craft, including wind surfers, but shall exclude surf boards and paddle boards.
- (b) Except as provided herein, no person shall operate a vessel or boat at a speed in excess of 5 nautical miles per hour within any area marked by buoys or markers which are moored along the perimeter, or as close thereto as is practicable, or adjacent to that portion of the San Diego — La Jolla Park Ecological Reserve as shown on Document No. O-16857 on file in the office of the City Clerk, which is hereby designated a restricted area pursuant to Harbors and Navigation Code section 660 and described as follows:

Beginning at Point “97” on Alligator Head Point thence 1939.69 feet N 20 degrees 18’ 47.0” E, more or less, to Point “42” (Lambert Coordinates: N 252,279.844, E 1,686,757.560; Geodetic Coordinates 32 degrees 51’ 21.0” North Latitude, 117 degrees 16’ 12.0” West Longitude), thence 2662.27 feet S 88 degrees 08’ 12.2” E, more or less, to Point “43” (Lambert Coordinates N 252,193.281, E 1,689,418.425; Geodetic Coordinates 32 degrees 51’ 20.4” North Latitude, 117 degrees 15’ 40.8” West Longitude), thence 125 feet N 30 degrees 0’ 00” E, more or less, to Point “44” (Lambert Coordinates N 252,301.534, E 1,689,480.925; Geodetic Coordinates 32 degrees 51’ 21.47” North Latitude, 117 degrees 15’ 40.08” West Longitude), thence 3028.48 feet N 10 degrees 24’ 55.6” E, more or less, to Point “45” (Lambert Coordinates N 255,280.115 E 1,690,028.427; Geodetic Coordinates 32 degrees 51’ 51.0” North Latitude, 117 degrees 15’ 34.0” West Longitude), thence 1741.11 feet S 81 degrees 24’ 29.1” E, more or less, to Point “82” (Lambert Coordinates N 255,020.000 E 1,691,750.000; Geodetic Coordinates 32 degrees 51’ 48.59” North Latitude, 117 degrees 15’ 13.78” West Longitude), thence generally southerly and westerly following the Mean High Tide Line to point of beginning.

- (c) Except as provided herein, no person shall use or operate a vessel or boat within an area marked by buoys or markers which are moored within that portion of the San Diego — La Jolla Park Ecological Reserve, or as close thereto as is practicable, as shown on Document No. OO-16857 on file in the office of the City Clerk, which is hereby designated a special use area pursuant to Harbors and Navigation Code section 660 and described as follows:

Beginning at Point “97” on Alligator Head Point, thence 2771.67 feet N 59 degrees 29’ 31.1” E, more or less, to Point “90” (Lambert Coordinates: N 251,867.843 E 1,688,472.153; Geodetic Coordinates: 32 degrees 51’ 17.09” North Latitude, 117 degrees 15’ 51.85” West Longitude), thence 400 feet S 30 degrees 30’ 28.9” E, more or less, to Point “91” (Lambert Coordinates: N 251,523.220 E 1,688,675.217; Geodetic Coordinates: 32 degrees 51’ 13.70” North Latitude, 117 degrees 15’ 49.43” West Longitude), thence 2450 feet S 59 degrees 29’ 31.1” W, more or less, to Point “99” (Lambert Coordinates: N 250,279.455 E 1,686,564.399; Geodetic Coordinates: 32 degrees 51’ 01.2” North Latitude, 117 degrees 16’ 14.0” West Longitude), thence generally southerly and westerly following the Mean High Tide Line to point of beginning.

- (d) The provisions of subsections (b) or (c) shall not apply to any vessel or boat used or operated by or under the authority of any governmental agency nor during emergency use or operation affecting life or property.

- (e) The City Manager may promulgate any additional rules and regulations necessary and consistent with these provisions regulating or limiting the use of boats, vessels, surf boards or paddle boards within the San Diego — La Jolla Underwater Park Ecological Reserve designated herein.
- (f) The City Manager shall cause appropriate buoys or markers to be moored to mark the perimeters of the special use and restricted areas hereby designated, or as close thereto as shall be practicable. Between October 1st and April 30th of each year, the City Manager is further authorized to reduce the size of the boating prohibited zone established in subsection c by removing buoys or markers as may be appropriate to accommodate seasonal demands.

*(Amended 10-2-1989 by O-17350 N.S.)*

### **§63.50 Restricting The Use Of Mission Beach Park**

- (a) From and after the effective date of this measure, the Mission Beach Park property owned by the City of San Diego shall be restricted to the following uses:
  - (1) Public park and recreation uses such as grass, picnic areas, public open space, public parking, public recreation and meeting facilities. Expressly excluded are retail and commercial uses except within a historically rehabilitated Plunge Building which would serve park and beach visitors, such as restaurants, fitness center and the like.
  - (2) Historical preservation uses, such as preservation and rehabilitation of the historic Plunge Building, Roller Rink Building and Roller Coaster where economically feasible.
  - (3) Incidental and related uses to those uses authorized by (a) and (b) above provided such incidental and related uses are clearly subordinate to the authorized uses and are minor in nature.
- (b) Immediately following the effective date of this measure, the City Council shall initiate a program to carry out the provisions of this measure by amending the appropriate planning and zoning documents applicable to the Mission Beach Park property so that they are consistent with this measure. This program shall include, as necessary, amendments to the Progress Guide and General Plan, Mission Beach Local Coastal Program, Mission Beach Planned District Ordinance, Mission Beach Precise Plan, and all applicable City Zoning Ordinances.

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- (c) Definitions. For purposes of this Initiative measure, the following words and phrases shall have the following meanings:
- (1) “Mission Beach Park” shall mean that real property together with fixtures and appurtenances owned by the City of San Diego and generally described as follows:
- Pueblo lands — Portion of lot 1803 West of Mission Boulevard, South of Ventura Place, North of San Fernando Place and East of Ocean Front Walk.
- (2) “Effective date” means the date upon which this measure is enacted by the City Council, or the date upon which it is approved by the voters, whichever occurs first.
- (d) Implementation. The City Council, City Planning Commission, and City staff are hereby directed to take any and all actions necessary under this Initiative measure, including but not limited to adoption and implementation of any amendments to the Progress Guide and General Plan, Mission Beach Local Coastal Program, Mission Beach Planned District Ordinance, Mission Beach Precise Plan, all applicable City Zoning Ordinances, or City Code, reasonably necessary to carry out the intent and purpose of this Initiative measure. Said actions shall be carried out forthwith.
- (e) Guidelines. The City Council may adopt reasonable guidelines to implement this Initiative measure following notice and public hearing, provided that any such guidelines shall be consistent with the intent and purpose of this measure.
- (f) Exemptions for Certain Projects. This measure shall apply to all proposed development or redevelopment of Mission Beach Park except a development or redevelopment proposal which has obtained a “vested right” as of the effective date of this measure. For purposes of this measure, a “vested right” shall have been obtained only if each of the following criteria is met:
- (1) The project has received its final discretionary approval; and
- (2) Substantial expenditures have been incurred in good faith reliance on the final discretionary approval; and
- (3) Substantial construction has been performed on the property in good faith reliance on the final discretionary approval.

The “substantiality” of the expenditures incurred and of construction performed and the question of whether or not such expenditures and construction were in “good faith” are questions of fact to be determined on a case by case basis by the City Council following application by the landowner

or developer and upon notice to the interested public, and following public hearing.

- (g) Amendment or Repeal. This measure may be amended or repealed only by a majority of the voters voting at an election thereon.
- (h) Severability. If a section, subsection, sentence, phrase, clause, or portion of this Initiative is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. It is hereby declared that this Initiative and each section, subsection, sentence, clause, phrase, part, or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portion be declared invalid or unconstitutional.

*(Addition of Sec. 63.50 approved on 7-28-1987 by O-16914 N.S. and voter approved 11-3-1987.)*