

CHAPTER 8 - LAND USE AND DEVELOPMENT REGULATIONS

<u>Section</u>	<u>Page</u>
8.010	Title and purpose..... 8-1
8.030	Scope and applicability..... 8-2
8.032	District permits required 8-2
8.034	County of San Luis Obispo or Coastal Commission approvals 8-3
8.036	Compliance with standards required..... 8-3
8.040	Fees required 8-3
8.050	Appeal..... 8-3
8.060	Public hearings..... 8-4
8.100	Land and facility use regulations..... 8-5
8.110	Allowable uses and permit requirements 8-5
8.115	Onshore oil support facilities 8-10
8.120	Use definitions 8-11
8.150	Provisions for emergency permits..... 8-12
8.200	Land use permit processing 8-12
8.202	Land use permit approval or disapproval 8-15
8.204	Effective date of permit - Other requirements 8-17
8.206	Permit time limits and extensions of time..... 8-17
8.210	Security for performance 8-18
8.300	General development standards 8-19

8.010 - Title and purpose

This chapter shall be known and may be cited as the "Land Use and Development Ordinance" of the Port San Luis Harbor District, Chapter 8 of the Port San Luis Code of Ordinances. The provisions of this chapter are hereby adopted to:

- A. Carry out the goals of the Port San Luis Harbor District Master Plan regarding the development and use of the lands, piers and tidelands under the jurisdiction of the District; and
- B. Provide regulations and standards that will promote the orderly and beneficial development and use of District lands and facilities; and
- C. Minimize adverse effects on the public from the improper creation, location, design, use, or development of building sites, buildings, equipment, land uses, parking areas, or other forms of land or facility use or development by providing appropriate standards for such use and development; and
- D. Support well-informed and methodical decisions to approve or disapprove proposed uses of District lands or facilities by District staff, the Board of Commissioners, the County of San Luis Obispo and the California Coastal Commission; and
- E. Assist the public in identifying and understanding applicable regulations and standards affecting the development and use of District lands and facilities.

Chapter Eight**8.030 - Scope and applicability**

The provisions of this chapter apply to all development, and the use of all lands and facilities under the ownership and jurisdiction of the Port San Luis Harbor District, including but not limited to the Harford, Unocal, and Avila Piers, certain beach and bluff areas adjacent to San Luis Obispo Bay and properties within the Town of Avila Beach owned by the Harbor District and/or identified by the Port San Luis Harbor District Master Plan. The provisions of this chapter apply in addition to any applicable requirements of the County of San Luis Obispo or the California Coastal Commission.

- A. Proposed uses and changes in use. The provisions of this chapter apply to all buildings, structures and uses of land, bodies of water, piers or other facilities to be created, established, constructed, altered or replaced after the adoption of this chapter. It shall be unlawful and a violation of this chapter for any person to establish, construct, alter, replace, change use or occupancy, or operate or maintain any building, structure, use of land, bodies of water, piers or other facilities, contrary to or without satisfying all applicable provisions of this chapter, including obtaining any land use or construction permits required by this chapter.
- B. Nonconforming uses. The provisions of this chapter shall not apply to a use of land, tidelands or piers lawfully established as of the date of adoption of this chapter, unless a substantial alteration, expansion or modification (more than 30 percent) of an existing use is proposed, or where the Harbor Manager determines that the health and safety of the occupants and the public demands that an existing use be subject to these requirements. Except that the standards of Section 8.300 (Requirements for Specific Land Uses and Areas of the District) shall apply to existing uses as specified in that section.
- C. Conflicting provisions. In the event of any conflict between the provisions of this chapter and the Avila Beach Public Facilities Planning Area Standards contained in the San Luis Obispo County Local Coastal Program - San Luis Bay Area Plan, the Local Coastal Program shall prevail.

8.032 - District permits required

The authority vested in the Port San Luis Harbor District by the State of California results in the District functioning as "land owner" of the areas under its jurisdiction. Any use of District lands or facilities may require permission from the District in one of four forms, as determined by this chapter:

- A. Approval of a land use permit pursuant to Sections 8.110 et seq. of this chapter (which is for the purpose of evaluating the appropriateness of a proposed use);
- B. The approval of an operating agreement, license, or a lease by the Board of Commissioners, granting either limited or long-term right to occupy and use District property and establishing a business relationship between the applicant and the District with the applicant as a concessionaire;
- C. Issuance of a building or other construction permit pursuant to Chapter 12 of this code (Construction Codes) if proposed development is located on Harford or Avila piers; or
- D. Issuance of a mooring permit pursuant to Chapter 16 of this code.

Chapter Eight

It shall be unlawful and a violation of this code for any person to establish, alter, or replace any use of land or other District property, or engage in any construction activity, including but not limited to grading and site work, or any construction, or change in the use or occupancy of structures without first obtaining all applicable land use and construction permits required by this chapter and Chapter 12 of this code and as may be required by San Luis Obispo County and/or the California Coastal Commission.

8.034 - County of San Luis Obispo or Coastal Commission approvals

The California Coastal Act of 1976 requires that certain types of development within the District must obtain a coastal development permit from either the County of San Luis Obispo or the California Coastal Commission, in addition to the approvals required from the District.

- A. Coastal development permits required. The permit requirements of this chapter shall not be construed as relieving any person from the responsibility of also obtaining any permits required by the County of San Luis Obispo or the California Coastal Commission, where applicable, for any use or development within the District that is also under the jurisdiction of San Luis Obispo County or the Coastal Commission.
- B. Time for filing coastal development permit application. An application for any permit or approval required by this chapter for a proposed development or use of Harbor District lands or facilities may be filed concurrently with the filing of appropriate applications and/or requests for county or Coastal Commission approvals. Provided, however, that at least conceptual approval by the District shall be obtained prior to any action by San Luis Obispo County or the Coastal Commission on such development permit application.

8.036 - Compliance with standards required

It is unlawful, and a violation of this code for any person to develop, use, visit, or otherwise conduct themselves on District property in a manner contrary to or not in compliance with the provisions of this chapter, including but not limited to the general development standards in Section 8.200, and the requirements for specific uses and areas in Section 8.300.

8.040 - Fees required

Any person applying for a permit required by this chapter shall pay the applicable filing, environmental review, plan check, permit or other fee to the Harbor Manager as required by Chapter 4 of this code at the time of application filing, or other time determined by the Harbor Manager.

8.050 - Appeal

Decisions or interpretations of the Harbor Manager pursuant to this chapter may be appealed to the Board by an applicant or any aggrieved person as provided by this section. These provisions may also be used when the Harbor Manager determines that the issue that was the subject of his or her decision or interpretation should be reviewed or decided by the Board.

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

Chapter Eight

- B. Report and hearing. When an appeal has been filed, the Harbor Manager will prepare a report on the matter, and cause the appeal to be scheduled for consideration by the Board at its next available meeting after completion of the report.
- C. Action and findings. After holding a public hearing pursuant to Section 8.060, the Board may affirm, affirm in part, or reverse the action, decision or determination that is the subject of the appeal, based upon findings of fact regarding the particular case. Such findings shall identify the reasons for the action on the appeal, and verify the compliance or non-compliance of the subject of the appeal with the provisions of this chapter.

8.060 - Public hearings

When a public hearing is required by this chapter before action on a land use permit or an appeal (Section 8.050), the hearing shall be conducted as provided by this section. Where applicable, the public hearing required by this section shall also serve as the public hearing required by relevant sections of the Harbors and Navigation Code Section, as may be amended.

- A. Notice of hearing: Notice of a public hearing shall be given as follows:
 - (1) Content of notice. The hearing notice shall include the date, time and place of the public hearing, describe the matter to be considered and the proposed location, explain how interested persons may obtain additional information about the application, and any additional information the Harbor Manager determines to be appropriate.
 - (2) Method of notice distribution. Notice of public hearings pursuant to this title shall be given not less than 10 days before a public hearing, as follows:
 - (a) Mailed notice: Notice shall be mailed to:
 - (i) The project applicant;
 - (ii) Each person who has requested such notice;
 - (iii) Each local agency expected to provide water, sewage, streets and roads, or other essential facilities or services to the District, whose ability to provide such facilities and services may be significantly affected; and
 - (iv) All owners of real property as shown on the latest equalized assessment roll within 300 feet of the parcel that is the subject of the hearing.
 - (b) Posted notice. Notice shall be posted at the site of the proposed use, or at the office of the Harbor Manager if posting the site is impractical.
 - (c) Published notice. Notice shall be published in a newspaper of general circulation published within the County of San Luis Obispo.
 - (d) Additional notice. Any notice in addition to that required above may be provided at the discretion of the Harbor Manager.
- B. Scheduling of hearing. After an application for a permit is determined to be categorically exempt, or a draft negative declaration, mitigated negative declaration or environmental impact report has been prepared and circulated for public review and comment, or an

Chapter Eight

appeal to a Harbor Manager action is filed, the matter shall be scheduled for public hearing on the next available Board of Harbor Commissioners meeting after completion of the staff report. At the discretion of the Board, a public hearing may be continued from time to time.

- C. Notice of action when hearing continued. If a decision on a permit or amendment is continued by the Board to a time which is neither previously stated in the notice provided pursuant to subsection A. above, nor announced at the hearing as being continued to a time certain, the Harbor Manager shall provide notice of the further hearings (or action on the proposed development) in the same manner and within the same time limits as provided by subsection A. above.
- D. Conduct of hearing. At the public hearing, interested persons may present information and testimony relevant to a decision on the proposed project or appeal.

8.100 - Land and facility use regulations

The purposes of the regulations of Sections 8.110 et seq. are to:

- A. Identify the uses of land that may be conducted on the lands, tidelands and piers subject to District jurisdiction and land use permit requirements for such uses; and
- B. Establish procedures for District evaluation, actions and decisions on proposed developments and uses of District lands and facilities; and
- C. Provide standards for the design, development, and operation of proposed uses of the lands, tidelands and piers subject to District jurisdiction.

8.110 - Allowable uses and permit requirements

This section establishes the uses that may be allowed on District lands, tidelands (except for open water areas) and piers, and the District land use and special event permit requirements for such uses proposed after the effective date of this chapter. The land use permit requirements of this section are in addition to any construction permits required by Chapter 12 of this code for construction activities on Avila or Harford Piers.

- A. Determination of allowable uses and permits. The types of uses of land, tidelands and piers that may be approved by the District, and the land use permit requirement for each such use and major changes to existing uses are shown on Table 8A, (pages 8-9 and 8-10). An "A" designation on the table means that the use is allowed and no land use permit is required. An "S" designation means that the proposed activity requires a Special Event Permit. An "M" designation means that an Administrative Permit is required. A "U" designation means that approval of a Use Permit is required before such a use can be lawfully established.
- B. Limitations on certain uses. Where Table 8A (pages 8-9 and 8-10) shows a land use as allowable and notes by means of a number following the letters "A", "S", "M", or "U" that special standards or limitations on the use apply, such limitations shall be as follows:
 - (1) Allowed uses subject to special standards. The following uses are allowed where shown by Table 8A (pages 8-9 and 8-10), without a land use permit, subject to the following standards:

Chapter Eight

- A-1 Boat launching at Avila Beach. No vessel, boat, or sail board shall be launched from or landed at Avila Beach, except that non-motorized craft may be launched from the westerly area of Avila Beach, near San Luis Creek.
- A-2 Oil vessel emergency use. As provided by Avila Beach Public Facilities Planning Area Standard 2.g. of the County Local Coastal Plan - San Luis Bay Area Plan, emergency use of the Harford Pier and/or Landfill Area by oil company support vessels (including oil spill cleanup vessels, crew and supply boats) shall be limited to responses to medical emergencies, fire, foundering vessels, or oil spills. The Harbor Manager shall report any such occurrence at the next meeting of the Board.
- A-3 Camping in the Harbor District. Self contained recreational vehicle camping in the allowable areas of the Harbor District areas under a camping permit and pursuant to the fee schedule of section 4.500.
- (2) Uses subject to a Special Event Permit and restrictions. The following uses are allowed where shown by Table 8A (pages 8-9 and 8-10), subject to Special Event Permit approval, and the following limitations on proposed uses:
- S-1 Private parties and receptions in Avila Parking. The holding of private parties and receptions (as defined by Section 8.120) in the Avila Parking facility requires approval by the Harbor District and will be subject to the payment, in advance of parking fees for space used.
- (3) Uses subject to an Administrative Permit and restrictions. The following uses are allowed where shown by Table 8A (pages 8-9 and 8-10), subject to Administrative Permit approval, and the following limitations on proposed uses:
- M-1 Movable vendors. The placement of movable vendors (as defined by Section 8.120) on District piers, beaches and other properties shall be limited to the locations as allowed per Board action.
- M-2 Emergency contingencies. The implementation of emergency contingency actions to protect public health, safety, or welfare in instances that require immediate attention by the permitting authority where time does not allow for compliance with the procedures as established by Section 8.200 are subject to the procedures as set forth in Section 8.150.
- M-3 Film Permit. Any type of commercial film or video production on Harbor District Property shall require a film permit issued by the Harbor District. The permit may require reimbursement for all costs incurred by the District in the production of the film or video. The Harbor District may set reasonable conditions or restrictions on any such permits.
- (4) Uses subject to a Use Permit and restrictions. The following uses are allowed where shown by Table 8A (pages 8-9 and 8-10), subject to Use Permit approval, and the following limitations on proposed uses:
- U-1 Fish processing. Fish processing may be approved on the Harford Pier only on the pier terminus, as shown on Figure 4 of the Harbor District Master Plan (Pod No. 3).

Chapter Eight

- U-2 Offices. Offices in the beach area are limited to District administrative offices at Avila Beach, pursuant to Avila Beach Public Facilities Planning Area Standard 2.t.(3) of the County Local Coastal Plan - San Luis Bay Area Plan.
- U-3 Retail sales. Retail sales on Harford and Avila Piers and shall be limited to "marine environment related" sales, pursuant to Avila Beach Public Facilities Planning Area Standard 2.j. of the County Local Coastal Plan - San Luis Bay Area Plan.
- U-4 Offshore oil support. . A Use Permit for offshore oil crew base and support uses may be approved only after approval of amendments to the Master Plan, Local Coastal Program and a vote in favor by a majority of the resident voters in San Luis Obispo County in accordance with Measure A and Section 8.115 of this Code that authorize the proposed use and the specific location on the Landfill Area where the use is proposed.
- C. Location of allowable uses. The uses of land identified as allowable by Table 8A (pages 8-9 and 8-10) for the Landfill and Harford Pier areas shall be located as shown on Figure 5 of the Local Coastal Plan - San Luis Bay Area Plan.
- D. Exemptions from land use permit requirements. The following uses and activities are exempt from the land use permit requirements of this article, as shown on Table 8A (pages 8-9 and 8-10), provided that nothing in this section shall be construed as exempting construction activities from the necessity of obtaining building, electrical, plumbing or other permits if required by Chapter 12 of this code (Construction Codes).
- (1) Ordinary repairs to buildings and structures, provided that such repairs shall not include any change in the approved land use of the site or building, or increase in the total floor area of the building or structure.
 - (2) Additions or alterations to any building or structure, where:
 - (a) The total valuation of work is not more than \$1,500 as determined by the District Fee Resolution for construction on Harford or Avila Piers, or by the County Fee Ordinance for construction elsewhere, as applicable; or
 - (b) Interior remodeling does not result in any significant change of land use either in density or intensity of use, expansion of footprint or height of the building and is in conformance with all applicable provisions of this chapter and is consistent with applicable provisions of the Master Plan and the Local Coastal Plan.
 - (3) Walls or fences of six feet or less in height, where authorized by the Harbor Manager.
 - (4) Installation, testing, placement in service, or the replacement of any necessary utility connection between an existing service facility and any development or use that has previously been granted a permit.
- E. Coastal Commission approval required. All applicants for development proposed seaward of mean high tide, including development on the Avila or Harford Piers, and on the portion of the landfill area shown on the Coastal Commission's Post-Certification and Appeals Maps as being within the original permit jurisdiction of the Coastal Commission, shall obtain

Chapter Eight

a coastal development permit from the Coastal Commission in addition to any District permits required by this chapter. An applicant shall not apply for a coastal development permit from the Coastal Commission until the District approval has been obtained pursuant to this article.

- F. County approval required. All applicants for development proposed inland of mean high tide, except on the portion of the landfill area shown on the Coastal Commission's Post - Certification and Appeals Maps as being within the original permit jurisdiction of the Coastal Commission, shall obtain a coastal development permit and, if required, a business license from the County in addition to any District permits required by this chapter. An applicant shall not apply for a coastal development permit from the County until the District preliminary land use approval has first been obtained pursuant to this article.

Chapter Eight

TABLE 8A - ALLOWABLE USES & PERMIT REQUIREMENTS

Land Uses*	Location						
	Avila Parking	Avila Pier ¹	Beaches and Bluffs	Harbor Terrace	Harford Pier ¹	Landfill Area ¹	Cal Polyl Pier ¹
Commercial Fishing & Boating							
Boat repair & maintenance				M		U	U
Fish buying		U			U	U	U
Fish processing					U-1	U	U
Sportfishing & charters		U			U		U
Transient vessel support		U			U	U	U
Harbor operations							
Accessory uses & structures	M	M	M	M	M	M	M
Boat launching		U	A-1		U	U	U
Emergency contingencies	M-2	M-2	M-2	M-2	M-2	M-2	M-2
Offices			U-2		U	U	U
Storage & maintenance facilities	M	M		M	M	M	U
Offshore oil support							
Crew base & support uses						U-4	U-4
Oil vessel emergency use					A-2	A-2	A-2
Recreation							
Bar/Dance hall					U		
Campgrounds			U	U		M	
Marine leisure	A	A	A	A	A	A	
Parks	U			U			
Picnic areas & playgrounds	M		M	U	M	M	
Yacht club			U	U		U	
Services							
Parking - Boats, trailers	A	M	M	M	M	M	
Parking - Vehicles	M	M	M	M	M	M	
Public restrooms & showers	M	M	M	M	M	M	
Storage - Boats/equipment	M	M	M	M	M	M	
Transit stops	U	M	U	U	M	U	
Short-term activities/special events							
Camping			S	S		A-3	
Commercial events	S	S	S	S	S	S	M
Motion picture filming	M-3	M-3	M-3	M-3	M-3	M-3	M-3
Private parties & receptions	S-1	S	S		S		S
Charitable events	S	S	S	S	S	S	M

1. Seaward of the mean high tide line only. Permit requirements for uses landward of the mean high tide line are advisory and may be superceded by the San Luis Obispo County Local Coastal Program and Coastal Zone Land Use Ordinance.

Chapter Eight

TABLE 8A - ALLOWABLE USES & PERMIT REQUIREMENTS

Land Uses*	Location						
	Avila Parking	Avila Pier ¹	Beaches	Harbor Terrace	Harford Pier ¹	Landfill Area ¹	Unocal Pier ¹
Trade							
Equipment rental		U	U	U	U	U	
Fish buying		U		U	U	U	U
Food & fish sales (fixed location)		U	U	U	U	U	U
Movable vendors	M-1	M-1	M-1		M-1	M-1	
Restaurants and bars		U		U	U	U	U
Retail sales		U-3		U	U-3	U	U
Wholesale sales - Marine		U		U	U	U	U
Other							
Marine research, marine educational facilities		U			U		U

KEY	
	Use not allowed
A	Allowed use, no permit required
S	Special Event Permit required
M	Administrative Permit required
U	Use Permit Required
A-1, 2; S-1;M-1,2; 3 U-1 to 5	An "A," "S," "M," or "U" followed by a number means that the Allowed Use, Administrative or Use Permit use is subject to special limitations.

* See Section 8.120 for definitions of the land uses listed in this table

1. Seaward of the mean high tide line only. Permit requirements for uses landward of the mean high tide line are advisory and may be superceded by the San Luis Obispo County Local Coastal Program and Coastal Zone Land Use Ordinance.

8.115 - Onshore oil support facilities

No permit, entitlement, lease, or other authorization of any kind within the jurisdiction of Port San Luis Harbor District, including all lands, salt marsh, tidelands, submerged lands, and swamp and overflowed lands within that portion of San Luis Bay described in Chapter 302 of the Statutes of 1957, which would authorize or allow the development, construction, installation, or expansion of any onshore support facility for offshore oil and gas activity shall be final unless such authorization is approved by a majority of the votes cast by a vote of the people of the County of San Luis Obispo in a general or special election. For the purpose of this ordinance, the term "onshore support facility" means any land use, installation, or activity required to support the exploration, development, production, storage, processing, transportation, or related activities of offshore energy resources.

Chapter Eight

- A. Authorizations obtained from Port San Luis Harbor District or the County of San Luis Obispo after November 1999, shall be subject to the provisions of this section.
- B. If any section, sentence, clause, phrase, or part of this section shall be held invalid by any court of competent jurisdiction, the remaining provisions shall be given full effect consistent with the intent and purpose of this section.

8.120 - Use definitions

The purpose of this section is to define certain of the land uses shown on Table 8A (pages 8-9 and 8-10), where the title of a particular use is intended to include a variety of other, related uses that may not be clearly indicated by the title itself.

Accessory uses and structures. Includes but is not limited to small structures used for storage or the enclosure of equipment, broadcast and receiving antennas, fish cleaning racks, lifeguard stations, access ramps and stairways, planter boxes and landscaping, trash enclosures.

Camping. Short-term camping of less than 14 consecutive calendar days on District landfill areas with a self-contained recreational vehicle. For the purpose of this Code, any motor vehicle parking during the hours of 10 PM and 6 AM which contains a person/persons sleeping therein, or contains bedding arranged for the purpose of, or in such a way as to permit, the occupants thereof to remain overnight, or any vehicle thus described parking in any area at any time designated for camping, shall be deemed to be camping.

Charitable events. A short-term event organized by a non-profit entity which has been granted a Federal exempt status.

Commercial events. The chief aim is profit for an individual or other legal entity. Typically supported or sponsored by advertising. Event is short-term in nature.

Crew base and support uses. As defined by Avila Beach Public Facilities Planning Area Standards 2.d. through 2.g. of the County Local Coastal Plan - San Luis Bay Area Plan.

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

Equipment rental. Includes but is not limited to the rental to the public beach, swimming, surfing and windsurfing equipment, scuba gear, jet skis, etc.

Fish processing. Major commercial processing facilities primarily involved with cleaning and preparation of fish for wholesale distribution. The small-scale cleaning and preparation of fish as a secondary use to retail food and fish sales is instead included under food and fish sales.

Marine leisure. Includes, but is not limited to, pier and waterfront fishing; active and passive beach use by individuals, families and small groups (less than 50 people), including swimming and sunbathing, surfing and windsurfing, picnicking, etc.; sightseeing.

Movable vendors. Concessionaires selling food items, or selling or renting beach gear (e.g., suntan lotion, beach chairs) or providing services (e.g. event planners, instructors) or other products from portable stands, carts, or other facilities that are removed from the site after business hours. A movable vendor does not have real property rights.

Chapter Eight

Offices. Includes the administrative offices of the Harbor District, and accessory offices supporting other approved commercial, service and recreational uses.

Oil vessel emergency use. As defined by Avila Beach Public Facilities Planning Area Standards 2.d. through 2.g. of the County Local Coastal Plan - San Luis Bay Area Plan.

Private parties and receptions. Organized group events, including but not limited to beach parties sponsored by corporations, institutions or clubs; and smaller group events where exclusive use of a District facility or property is requested for a particular time period.

Transient vessel support. Facilities and services in support of both locally-based recreational boating and visiting vessels. Includes but is not limited to facilities such as restrooms, showers, boat hoists, launching ramps, bait and tackle sales. (See Section 1.100 for the definition of "Transient Vessel.")

In the event of any uncertainty about the meaning of a particular land use title on Table 8A (pages 8-9 and 8-10), the Harbor Manager is assigned the authority to interpret the intent and meaning of the uses listed. The Harbor Manager may choose to request that the Board decide the meaning of a particular use. In such cases, the appeal process defined by Section 8.050 shall be used.

8.150 - Provisions for the processing of emergency permits

In those instances of disaster, catastrophe, or imminent threat to life or the environment, caused either by human error or natural forces, which require immediate action, an emergency administrative permit may be issued contingent upon the following:

- A. The harbor manager, or his/her duly acting representative, upon being informed of an impending situation must make a determination in writing whether the situation is or is not an "emergency"; and
- B. If the situation is deemed an emergency and requires immediate response, the harbor manager or his/her representative shall be authorized to take those actions as specified within the Local Contingency Plan and any other actions necessary to protect the public's health, safety and welfare, including but not limited to road closures, erection of temporary staging areas, etc; and
- C. If the emergency occurs during normal Harbor Office hours of operations (Monday through Friday, 8:00 am to 4:30 pm), a reasonable effort shall be made to immediately contact the members of the commission. Otherwise the commissioners will be contacted during the next business day; and
- D. At the next possible Board of Commissioners meeting, the commissioners shall review the circumstances of the emergency along with the response measures and their effectiveness and make a decision to either affirm or deny validation of the issuance of that permit.

8.200 - Land use permit processing

Three types of land use permits are employed by the District to review proposed uses that are required to obtain permit approval by Section 8.110 (allowable uses and permit requirements): Special Event Permit, Administrative Permit, and Use Permit. Special Event Permits are approved or disapproved at the staff level without a public hearing, for temporary activities (less than three days) which are consistent with the capacity and intent of District facilities.

Chapter Eight

Administrative Permits are approved or disapproved by the Harbor Manager or his/her designee after a public hearing conducted by the Harbor Manager, and Use Permits are heard and approved by the Board. This section establishes the procedures used to process such applications.

A. Application contents. Administrative Permit and Use Permit applications shall include the application forms provided by the Harbor Manager, and the following information:

- (1) Site Plan: A site layout plan containing the following information, using multiple sheets if necessary:
 - (a) Location, exterior boundaries and dimensions of the entire site that is the subject of the application. Scale of drawing, north arrow.
 - (b) Location, dimensions, and use of all existing and proposed structures on the site, including accessory structures, decks, etc.; height of existing and proposed buildings and structures.
 - (c) Location and dimensions of existing and proposed parking areas, including type of surfacing materials, landscaping areas, areas to be graded or filled.
 - (d) The location, use and approximate dimensions of buildings within 50 feet of the site.
 - (e) Proposed means of solid waste disposal.
- (2) Floor plan and architectural elevations: Shall be provided for all structural uses.
- (3) Sign information: Include a description of the location, size, design and copy when any use is proposed to have signs.
- (4) Environmental impact information: The applicant shall supply information about the project sufficient to conduct an initial study as required by CEQA Guidelines Section 15063. Such information may include, but is not limited to, a completed copy of the District's Environmental Description Form.
- (5) Application narrative: Including a narrative description of the proposed use and associated activities, proposed hours of operation, and explanation of any additional permits or entitlements that will be required from agencies other than the District.
- (6) Reduced drawings: Include one copy each of the site plan and architectural elevations (if any), reduced to 8-1/2 by 11 inch sheets to facilitate the transmittal of such information on the proposed project to responsible agencies for their review.

B. Waivers of content. The Harbor Manager may find that characteristics of a project site or the nature of a project make it infeasible or unnecessary for the applicant to submit all of the application information required by subsection A., above. In such cases, the Harbor Manager may waive or reduce the requirements if it is also found that the absence of such documentation will not reduce the ability of the Harbor Manager to evaluate the compliance of the proposed project with the standards of this chapter.

C. Application filing, completeness review and acceptance:

Chapter Eight

- (1) Applications for Administrative Permit or Use Permit approval shall be filed with the Harbor Manager, together with the filing fee required by the District Fee Resolution.
 - (2) Within 30 days of the date of filing of a land use permit application with the District, the Harbor Manager shall determine whether the application includes the information required by this chapter. The applicant shall be informed by letter either that the application has been accepted for processing; or that the application is incomplete and that additional information, specified in the letter, must be provided to make the application complete.
 - (3) When an applicant is notified that an application is incomplete, the time used by the applicant for preparation and submittal of the required additional information shall not be considered part of the period within which the Harbor Manager must determine whether the application is complete. The time available to an applicant for preparation and submittal of additional information shall not exceed 45 days, after which the application shall be deemed withdrawn, and shall be returned to the applicant, together with any unused portion of the filing fee.
- D. Referrals. The purpose of notification is to inform interested agencies of proposed projects that may affect their jurisdictions so that such agencies may provide the District with comments on development proposals. Applications for Administrative Permits or Use Permits may be referred to any or all of the following agencies, at the discretion of the Harbor Manager.
- (1) California Coastal Commission.
 - (2) California Department of Boating and Waterways.
 - (3) California Department of Forestry (S.L.O. County Fire).
 - (4) California State Lands Commission.
 - (5) Department of Planning and Building, San Luis Obispo County.
 - (6) Office of the Environmental Coordinator, San Luis Obispo County.
 - (7) Wildlife Conservation Board, California Department of Fish and Game.
- E. Environmental review. All proposed activities for a Special Event Permit must be found to be exempt from the provisions of the California Environmental Quality Act (CEQA), else the applicant must refile for either an Administrative or Use Permit. When an Administrative Permit or Use Permit application has been accepted for processing as set forth in subsection C. of this section, the project it proposes shall be subject to an environmental determination as required by CEQA and Chapter 10 of this code. No action shall be taken to approve the application until the environmental determination results in:
- (1) A statement by the Environmental Coordinator that the project is exempt from the provisions of CEQA; or
 - (2) Approval of a negative declaration or mitigated negative declaration by the decision-making body pursuant to CEQA; or

Chapter Eight

- (3) Certification of a final environmental impact report (EIR) by the decision-making body pursuant to CEQA.

If an EIR is required, the application shall be processed and approved only as a Use Permit.

- F. Staff report. After the preparation of a proposed negative declaration, mitigated negative declaration or draft EIR, the Harbor Manager shall prepare a staff report that describes and analyzes the proposed project in terms of its relationship to District policies and regulations, and existing uses in the vicinity, and concludes:
 - (1) In the case of an application for Administrative Permit, whether the Harbor Manager intends to approve the application unless information obtained at the public hearing results in another conclusion; or
 - (2) In the case of an application for Use Permit (or an Administrative Permit that is referred to the Board for a decision per subsection G. following), with a recommendation that the Board approve or disapprove the application, subject to testimony received at the public hearing.
- G. Referral of Administrative Permit to the Board. At the discretion of the Harbor Manager, any application for an Administrative permit may be referred to the Board for a decision. In any case where the Harbor Manager determines that an application for an Administrative Permit raises significant policy issues or involves substantial public controversy, the Harbor Manager may refer the Administrative Permit to the Board to be approved or disapproved in the same manner as a Use Permit, described in Section 8.202 (Land Use Permit Approval or Disapproval).
- H. Public hearing. After completion of a staff report, the Harbor Manager shall schedule the matter for a public hearing pursuant to Section 8.060. In the case of an application for Administrative Permit, the public hearing shall be conducted by the Harbor Manager. A public hearing on a Use Permit shall be conducted by the Board.

8.202 - Land use permit approval or disapproval

Action to approve or disapprove an Administrative Permit or Use Permit after a public hearing shall occur as follows:

- A. Authority to take action. The Harbor Manager is hereby assigned the authority to approve, approve subject to conditions, or disapprove applications for Administrative Permit approval (except where an Administrative Permit application has been referred to the Board pursuant to Section 8.200G) for uses of District property seaward of the mean high tide line. The authority to approve, approve subject to conditions, or disapprove applications for Use Permit approval is assigned to the Board.
- B. Action on environmental determination. After the public hearing required by Section 8.200H, the Board or Harbor Manager (as applicable) shall decide whether to approve a proposed negative declaration, mitigated negative declaration, or certify a final environmental impact report pursuant to Chapter 10 of this code and shall approve, approve subject to conditions or disapprove the land use permit as set forth in this section.
- C. Findings required for approval. No land use permit shall be approved unless the Harbor Manager or Board (as applicable) first finds that:

Chapter Eight

- (1) The proposed use satisfies the District priorities for new uses as set forth in Chapter 3 of the Master Plan and Avila Beach Public Facilities Planning Area Standard 2.a. of the County Local Coastal Program - San Luis Bay Area Plan, in that:
 - (a) The use is a commercial fishing operation, aquaculture or mariculture, or is in direct support of commercial fishing; or
 - (b) The use is a sportfishing operation or is in direct support of sportfishing, and will not conflict with existing commercial fishing operations or impair opportunities for expansion of existing commercial fishing operations or the establishment of new commercial fishing operations; or
 - (c) The use is a recreational boating use, and will not conflict with existing commercial fishing or sportfishing operations, or impair opportunities for expansion of existing commercial fishing or sportfishing operations or the establishment of new commercial fishing or sportfishing operations.
 - (d) The use is another visitor-serving use, or coastal-related and non-coastal-dependent use, and will not conflict with existing commercial fishing, sportfishing or recreational boating operations, or impair opportunities for expansion of such existing operations or the establishment of such new uses.
 - (2) The proposed use will satisfy all applicable provisions of this chapter and the Port San Luis Harbor District Ordinances.
 - (3) The proposed use is consistent with all applicable policies and provisions of the Port San Luis Master Plan.
 - (4) The proposed use is consistent with all applicable provisions of the San Luis Obispo County Local Coastal Program.
- D. Conditions of approval. As part of the approval of a Special Event Permit, Administrative Permit or Use Permit, the Harbor Manager or Board, as applicable, may adopt conditions of approval to accomplish the following:
- (1) Secure compliance with the objectives and requirements of this chapter and the Master Plan.
 - (2) Require that security be provided to guarantee performance and/or compliance with conditions of approval, as set forth in Section 8.210 (Security for Performance).
 - (3) Require installation of specific on-site or off-site improvements.
 - (4) Ensure compatibility between the proposed use and its site, surrounding uses and port operations.
 - (5) Mitigate adverse environmental impacts.
 - (6) Protect public health and safety.

Chapter Eight

- E. Time limits for approval or disapproval. The District shall conclude the processing of land use permit applications as follows, or the events specified in Government Code 65956 shall occur:
- (1) The District shall act to approve or disapprove a project for which a negative declaration or mitigated negative declaration has been adopted within six months of the date the application was accepted as complete pursuant to Section 8.200C.;
 - (2) The District shall act to certify a final EIR and approve or disapprove the project that is the subject of the EIR within one year of the date the application was accepted as complete pursuant to Section 8.200C.;

Provided that the time periods provided by this section may be extended 90 days through the mutual consent of the applicant and the Harbor Manager, pursuant to Government Code Section 65957. Any land use permit deemed approved pursuant to section 65956 of the Government Code shall be subject to all applicable provisions of this chapter, which must be satisfied by the applicant before lease or license is granted, or any construction permit is issued. Nothing in this section shall require the District to grant a lease or license to use District property or facilities because a land use permit has been deemed approved.

8.204 - Effective date of permit - Other requirements

A land use permit approved by the Harbor Manager or the Board shall not become effective for the purpose of obtaining a construction permit pursuant to Chapter 12 of this code and commencing construction, or establishing a use that does not require construction, until the following occur:

- A. License. The applicant is issued a license by the Harbor Manager which grants a limited right to occupy and use District property and establishes a business relationship between the applicant and the District with the applicant acting as a concessionaire; or
- B. Lease. The Board of Commissioners agrees to enter into a lease with the applicant, which grants a long-term right to occupy and use District property and establishes a business relationship between the applicant and the District with the applicant acting as a concessionaire; and
- C. Coastal development permit. The applicant obtains a coastal development permit from either the County or the Coastal Commission, as applicable, pursuant to Sections 8.110E. and 8.110F.
- D. Notification of the Board. In cases of Special Event Permits, Harbor District staff shall notify, in writing, the Harbor Commissioners of the approved permit. Such notification shall be made within ten (10) Harbor Office business days.

The procedure for obtaining a license or lease shall be as determined by resolution of the Board of Commissioners.

8.206 - Permit time limits and extensions of time

- A. Permit time limits. An approved land use permit is valid for the purpose of obtaining a construction permit and completing construction, or establishing a use that does not require construction, for a period of 12 months after its effective date, unless conditions of approval

Chapter Eight

specify a different time limit. At the end of 12 months (or such other period specified by conditions), the land use permit shall expire and become void unless:

- (1) The approved use is established and all applicable conditions of approval have been satisfied; or
 - (2) An extension of time is granted as set forth in subsection B. following.
- B. Extensions of time. After receiving a request in writing from the applicant before the expiration of a permit, the Harbor Manager may grant such extensions in increments not to exceed six months, and may, at his or her discretion, refer such requests to the Board for action, provided that the Harbor Manager (or Board, in the event of referral of an extension request) first finds that:
- (1) Circumstances beyond the control of the applicant have created the need for the extension; and
 - (2) The applicant is making reasonable progress toward establishing the use given the circumstances that have necessitated the extension; and
 - (3) Based upon progress to date, it is reasonable to assume that the applicant will complete establishment of the approved use and fulfill all applicable conditions of approval within the additional time allowed; and
 - (4) There have been no changes in the circumstances or facts that led to the original approval of the permit for which an extension is being requested.
- C. Property clearance after expiration required. In the event that expiration of a permit occurs, or a requested extension of time is not granted, all work shall cease, and the applicant shall remove all materials and equipment from District property.

8.210 - Security for performance

When required by a condition of approval of a land use permit, appropriate performance security or guarantees shall be provided by the applicant as set forth here. Security is used to guarantee the proper completion of required improvements, grading, revegetation, site restoration after use, reclamation and/or the removal of structures, equipment or other materials, preservation of certain site features, or compliance with other provisions of this chapter or conditions of approval. The guarantee shall be a bond or other secured contractual guarantee, as approved by the Harbor Manager. The use of the terms bond, guarantee and security in this section shall all mean guarantees of performance.

- A. Posting. The guarantee shall be posted with the Harbor Manager, with the Port San Luis Harbor District named as beneficiary.
- B. Form of security. A cash bond, certificate of deposit, or other guarantee shall be in a form approved by the Harbor Manager, including default provisions, and shall provide that in the event suit is brought upon the bond by the District and judgment is recovered, the surety shall pay all costs incurred by the District in such suit, including reasonable attorneys' fees to be fixed by the court.

Chapter Eight

- C. Amount of security. The guarantee shall be of an amount established by the Harbor Manager equal to the actual cost of completing the specified improvements, restoration, or satisfying conditions of approval.
- D. Release of security. At the request of an applicant, or before the expiration of a bond or guarantee, the Harbor Manager will review the project and issue a completion statement if all provisions of this chapter and conditions of approval have been met. Upon issuance of the completion statement, the guarantee, bond or cash deposit will be released. If the Harbor Manager determines the project does not meet the applicable requirements, the applicant shall be notified in writing of such deficiencies. A time period for their correction shall be mutually agreed upon by the applicant and the Harbor Manager, with the security being held until all such requirements are satisfied. Where no agreement is reached after written notification by the Harbor Manager, or where an agreed time period for completion is exceeded, the bond shall be called.

8.300 - General development standards

All new uses, and existing uses that are subject to new or amended land use permits because of proposed changes, shall comply with the provisions of this section.

- A. The location, design and character of new development and land uses shall be consistent with applicable provisions of the Port San Luis Harbor District Master Plan and the Avila Beach Public Facilities Planning Area Standards contained in the San Luis Obispo County Local Coastal Program - San Luis Bay Area Plan.
- B. The setbacks, heights of buildings and structures, parking and loading facilities, landscaping, screening and fencing, solid waste collection and disposal facilities, signs, outdoor lights, grading, drainage, fire safety, shoreline structures, and underground utilities associated with any proposed development or use shall be consistent with applicable provisions of the San Luis Obispo County Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code.
- C. In the event of any conflict between the provisions of the Master Plan and the Local Coastal Program, the Local Coastal Program shall prevail.