

DRAFT

SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE xxxx

**ORDINANCE AMENDING SAN DIEGO UNIFIED
PORT DISTRICT CODE ARTICLE 8, SECTION 8.02
– PARK AREAS REGULATED, TO ADD
SWEETWATER PARK IN CHULA VISTA, AS A
PASSIVE PARK**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (Board) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, Section 56 of the Port Act requires the Board to make local regulations pertaining to the use of all public services in the District, operated in connection with or for the promotion and accommodation of commerce, navigation, fisheries, and recreation on District Tidelands; and

WHEREAS, as part of the Chula Vista Bayfront Master Plan, Sweetwater Park in Chula Vista was designated to be passive in nature because of its proximity to wildlife habitat; and

WHEREAS, construction of Sweetwater Park began in September 2023, and improvements to the 21-acre Sweetwater Park in Chula Vista will be finished later this fall; and

WHEREAS, San Diego Unified Port District Code (Port Code) Section 8.02 – Park Areas Regulated, identifies the District’s 22 existing public parks in all five member cities and establishes rules and regulations for them, including specifying what activities are prohibited; and

WHEREAS, District staff recommends adding Sweetwater Park to Port Code Section 8.02 – Park Areas Regulated to enable the District to post signs to inform the public about the park’s rules and regulations, and establish the authority for the District to conduct enforcement; and

WHEREAS, based on the provisions identified in the Chula Vista Bayfront Development Policies (Clerk Doc. #59407, Filed October 5, 2012) and the existing certified Port Master Plan, Sweetwater Park will be designated as a passive park, which includes the following additional restrictions:

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- Amplified sound equipment will be prohibited;
- Reservations for group events and activities will be prohibited.; and

WHEREAS, the proposed Board action, including without limitation amending Article 8, Section 8.02 – Park Areas Regulated, of the San Diego Unified Port District Code to add Sweetwater Park in Chula Vista as a passive park, was previously analyzed in the Final Environmental Impact Report (FEIR) for the Chula Vista Bayfront Master Plan (UPD#83356-EIR-658; SCH #2005081077, Clerk Document No. 56562) prepared and certified by the District on May 18, 2010 (Resolution No. 2010-78), the Addendum to the FEIR, adopted by the Board on August 13, 2013 (Resolution No. 2013-138), the Second Addendum to the FEIR, adopted by the Board on April 10, 2018 (Resolution No. 2018-0069), and the Third Addendum to the FEIR, adopted by the Board on December 8, 2020 (Resolution No. 2020-116); and

WHEREAS, the proposed project is not a separate project for CEQA purposes but is a subsequent discretionary approval related to a previously approved project. (CEQA Guidelines § 15378(c); *Van de Kamps Coalition v. Board of Trustees of Los Angeles Comm. College Dist.* (2012) 206 Cal.App.4th 1036.); and

WHEREAS, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR, the District finds that the proposed Board action does not require further environmental review as: 1) no substantial changes are proposed to the project and no substantial changes have occurred that require major revisions to the previous FEIR due to the involvement of new significant environmental effects or an increase in severity of previously identified significant effects; and 2) no new information of substantial importance has come to light that (a) shows the project will have one or more significant effects not discussed in the previous FEIR, (b) identifies significant impacts more severe than those analyzed in the previous FEIR, (c) shows that mitigation measures or alternatives are now feasible that were identified as infeasible and those mitigation measures or alternatives would reduce significant impacts, or (d) shows mitigation measures or alternatives which are considerably different from those analyzed in the previous FEIR would substantially reduce one or more significant effects on the environment. Because none of these factors have been triggered, pursuant to CEQA Guidelines §15162(b), the District has determined no further analysis or environmental documentation is necessary; and

WHEREAS, the proposed Board action is merely a step in the furtherance of the original project for which environmental review was performed and no supplemental or subsequent CEQA has been triggered, and no further environmental review is required; and

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WHEREAS, the proposed Board action complies with Sections 21, 35, and 87 of the Port Act which allow for the Board to pass ordinances, to do all acts necessary and convenient for the exercise of its powers, and for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board actions are consistent with the Public Trust Doctrine; and

WHEREAS, the proposed Board action was covered in the Coastal Development Permit (CDP) for Sweetwater Park (CDP-2020-001; Clerk Document No. 71565) approved for issuance by the District on April 14, 2020 (Resolution No. 2020-041) The proposed Board action is consistent with the CDP. No additional action under the California Coastal Act is required at this time; and

WHEREAS, staff recommends the Board adopt an ordinance amending San Diego Unified Port District Code Article 8, Section 8.02 – Park Areas Regulated, to add Sweetwater Park in Chula Vista, as a passive park.

NOW, THEREFORE, the Board of Port Commissioners of the San Diego Unified Port District does ordain as follows:

1. The Board finds that the facts recited above are true and further finds that the Board has jurisdiction to consider, approve, and adopt the subject of this Ordinance.

2. Based on the entire record available to the Board and the findings set forth in this Ordinance, the Board finds that the Board action amending San Diego Unified Port District Code Article 8, Section 8.02 – Park Areas Regulated, to add Sweetwater Park in Chula Vista, as a passive park, does not require further environmental review, pursuant to CEQA Guidelines Sections 15162 and 15163, and based on the review of the entire record, including without limitation, the FEIR.

3. That Section 8.02 to Article 8 of the San Diego Unified Port District Code is hereby amended as follows:

8.02(a)(23)

“Sweetwater Park” in the City of Chula Vista, located north, west, and southwest of the RV park in the Sweetwater District of the Chula Vista Bayfront Master Plan, and westerly of the future alignment of E Street. Sweetwater Park is designated as a passive park.

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8.02(a)(24)

Any other land designated as a public park.

8.02(d)

(d). Within the limits of any Public Park that this code designates as a passive park, the following additional restrictions apply:

1. The use of amplified sound is prohibited.
2. Reservations for group events and activities are prohibited and permits under section 8.02(b)(17) shall not be issued.

8.02(b)(d-g)

Minor formatting changes substantially in the form attached as Attachment A to the Agenda Sheet on file with the Office of the District Clerk.

4. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 13th day of August 2024, by the following vote: