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**HUMBOLDT BAY HARBOR, RECREATION
AND CONSERVATION DISTRICT**

ORDINANCE NO. 17

**AN ORDINANCE ESTABLISHING RULES, REGULATIONS AND
ENFORCEMENT PROCEDURES FOR THE ANCHORING, SECURITY AND
DISPOSITION OF VESSELS AND PROPERTY IN
HUMBOLDT BAY**

THE BOARD OF COMMISSIONERS OF THE HUMBOLDT BAY HARBOR,
RECREATION AND CONSERVATION DISTRICT DOES HEREBY ORDAIN AS
FOLLOWS:

ARTICLE I

SHORT TITLE; DEFINITIONS

SECTION 1.1 SHORT TITLE. This Ordinance shall be known as the "Anchoring,
Ordinance".

SECTION 1.2 DEFINITIONS. For the purposes of this ordinance, certain words
and phrases used herein are defined as follows:

- (a) "Abandoned Property" in accordance with section 522 (a) of the Harbors and Navigation Code, is any hulk, derelict, wreck, or parts of any ship, vessel or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the jurisdictional limits of Humboldt Bay Harbor, Recreation and Conservation District, without its consent expressed by resolution of its legislative body, for a period longer than thirty (30) days without a watchman or other person being maintained upon or near and in charge of the property.
- (b) "Anchoring" means attaching a vessel to the bottom or shore of Humboldt Bay, inclusive of the shores of Woodley Island, Indian (Gunther) Island and Daby Island using equipment, lines, ropes, chain or cable which is carried on board such vessel as regular equipment when underway.
- (c) "Board" or "Board of Commissioners" means the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District.

- (d) "Channel" means any waterway navigable by vessels or artificially improved or created so as to be navigable by vessels.
- (e) "District" means the Humboldt Bay Harbor, Recreation and Conservation District.
- (f) "Exclusion Zone" means Humboldt Bay Bar Channel, Humboldt Bay Entrance Channel; Fields Landing Channel; North Bay Channel; Eureka Channel (Outer and Inner Reaches); Samoa Channel; and all government maintained channels, turning basins and fairways leading to a wharf area and within 200 yards of a wharf area, and any exclusion zone promulgated by the United States Coast Guard.
- (g) "Harbor Master" means the Chief Executive Officer or a designated representative of the District.
- (h) "Humboldt Bay" means the land and overlying waters, to the limit of tidal action, of what is commonly known as Humboldt Bay (inclusive of what is commonly known as South Bay and Arcata Bay) Humboldt County, California, including the land and overlying waters of all streams and estuaries tributaries as further defined in Harbor District Ordinance No. 7.
- (i) "Marina" means any structure attached to shore of Humboldt Bay that is capable of securing more than six vessels simultaneously and providing any one of the following services: water, electricity, fire protection, bilge water collection and/or sewage pump out stations. Marinas may include, but are not limited to, Woodley Island Marina, Eureka Public Marina and private marinas in the community of King Salmon.
- (j) "Mooring" means the use of any weight, chain, rope, floating objects, structures or appliance used alone or together for the purposes of attaching and holding a vessel in a particular place and which is not carried on board such vessel as regular equipment when underway.
- (k) "Peace Officer" means every sworn peace officer of this state or of any City, County, City and County, Harbor District or other political subdivisions of the state, and shall have authority to enforce the provisions of Chapter 5 of the Harbors and Navigation Code.
- (l) "Permittee" means the legal owner, operator, or any individual in possession of a vessel using an anchorage by the authority of the District under a Temporary Anchoring Permit.

- (m) "Pier" means a structure built out into the water with piles for use as a landing place.
- (n) "Storage" means the mooring, berthage, wharfage, or anchorage of a vessel.
- (o) "Temporary Anchoring Permit" means a temporary license for the privilege to anchor or moor a vessel in Humboldt Bay under this ordinance.
- (p) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water, except either of the following: (1) A seaplane on the water, or (2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.
- (q) "Waters" means navigable waters of the United States and waters which come under the jurisdiction of the United States Army Corps of Engineers, and any other waters within the state with the exception of those privately owned.
- (r) "Wharf area" means and includes pier, wharf, bulkhead, bulkhead wharf, seawall, seawall structure, embankment, thoroughfare, and other port terminal facility areas along side of which vessels may lie or which are suitable for and are to be used in the loading and unloading, assembling, distribution and handling of merchandise.

ARTICLE II JURISDICTION; AUTHORITY

SECTION 2.1 Under the provision of Appendix II of the California Harbors and Navigation Code the jurisdiction of the District to exercise its powers extends over the following:

- (a) All tide, submerged and other lands granted to the district.
- (b) Humboldt Bay as defined above, means all waters including all rivers, sloughs, estuaries, and areas tributary to Humboldt Bay as defined in Harbor District Ordinance No. 7.
- (c) The protection of wildlife habitats, the improvement, protection, and

conservation of the wildlife and fish resources and the ecology of the area, the providing of open space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the bay and the area, control of dredging or filling of the bay, or both and prevention of public pollution of the bay.

SECTION 2.2 Under the authority of section 4 of Appendix II of the California Harbors and Navigation Code, the Board may:

- (a) Make and enforce all necessary rules and regulations governing the use and control of all navigable waters and all tidelands and submerged lands, filled or unfilled, and other lands within the jurisdiction limits of the District.
- (b) Regulate and control the anchoring, mooring, towing, docking, movement, and pilotage of all vessels.
- (c) Establish and maintain a system of harbor police and may establish harbor fire protection within the jurisdictional limits of the District for the enforcement of the ordinances, rules and regulations of the District, and employ the necessary officers, who shall as to such matters have all the power of peace officers and firemen within the District; or in the alternative, the District may contract with the governmental entities whose territorial limits are adjacent to or contiguous to those of the District to provide such services.

SECTION 2.3 Duties of the Harbor Master

The Harbor Master, the Eureka Police Department, Humboldt County Sheriff Department, United States Coast Guard, or their designated representatives shall have authority to enforce the provisions of this ordinance and all lawful regulations affecting Humboldt Bay. It shall be the duty of the Harbor Master to:

- (a) Carry out and enforce the orders of the Board, the provisions of this ordinance and all regulations and laws of the District, the waters and uplands within the District's jurisdiction.
- (b) Assign moorings, anchorages, and berths to vessels within its jurisdiction.
- (c) Execute on behalf of the District, Temporary Anchoring Permits for moorings, anchorages, and berths within the District's jurisdiction.

- (d) Order any vessel improperly moored, anchored, or berthed, or in violation of any provision of this ordinance, to change its position to one as the Harbor Master shall designate or to remove the same from the District's jurisdiction, and in the event the Harbor Master's orders are not complied with, to cause such vessel to be moved and to collect the cost thereof from such vessel Permittee or owner thereof.
- (e) Report promptly to the proper authorities any violation of the laws of the United States for the protection of navigation and the preservation of navigable waters or any violation of the state or local laws or regulations.
- (f) Remove abandoned vessel and/or property from Humboldt Bay in accordance with Harbors and Navigation Code Section 522.

ARTICLE III

LIABILITY OF PERMITTEE

SECTION 3.1 The District is not liable in any manner or for any cause whatsoever for any vessel or its contents, gear, and equipment thereof, or any loss or damage thereto howsoever occasioned. Anchoring or mooring of any vessel is at the sole risk of the Permittee.

SECTION 3.2 The District assumes no risk on account of fire, theft, sinking, act of God, or any damage of any kind to a vessel, its equipment, or any property in or on the vessel anchoring or mooring under a Temporary Anchoring Permit within the jurisdiction of the District.

SECTION 3.3 In the event District considers it necessary to resecure or relocate a vessel for any reason, the Permittee shall pay a reasonable cost or charge therefore, plus all costs and materials used therefore. The District assume no responsibility for the safety of a vessel and is not liable for fire, theft, sinking, act of God, or any damage of any kind to a vessel, its equipment, or any property in or on the vessel by reason of District's decision either to resecure the vessel or not to resecure the vessel.

SECTION 3.4 The District, its Board of Commissioners, its Harbor Master, employees, and representatives, are not liable for removal, relocation or storage of vessels under this ordinance.

SECTION 3.5 At all times the Permittee shall comply and shall require all of Permittee's family, agents, employees, business visitors, guests and invitees to comply with all laws, ordinances, rules and regulations, including those of the local, state and

federal government.

ARTICLE IV
TEMPORARY ANCHORING PERMITS

SECTION 4.1 No vessel may anchor or moor within Humboldt Bay for a period in excess of seventy-two (72) consecutive hours without the owner, operator, or captain of the vessel first obtaining a Temporary Anchoring Permit from the District; the owner, operator, or captain of the vessel shall present proper personal identification and license, if applicable, and evidence of title or ownership of the vessel. A Temporary Anchoring Permit authorizes the holder to anchor or moor only and grants no further rights, privileges or uses. A Temporary Anchoring Permit is valid only for fourteen (14) continuous days from date of issuance or extension. A Temporary Anchoring Permit may be extended for only one additional fourteen (14)-day period at the discretion of the Harbor Master.

SECTION 4.2 A Temporary Anchoring Permit may be issued only with respect to a named individual or government entity and a single vessel and shall be valid only in respect to that individual or government entity and vessel. It shall be the responsibility of the vessel owner, operator, or captain to contact the Humboldt Bay Harbor District and apply for a Temporary Anchoring Permit within seventy-two (72) hours of anchoring in Humboldt Bay. Humboldt Bay Harbor District can be contacted at telephone number (707) 443-0801, by fax at (707) 443-0800, by E-mail at woodleyisland@portofhumboldt.org, or by VHF on channel 14.

SECTION 4.3 A Temporary Anchoring Permit is non-assignable and is not transferable. No attempted transfer of assignment, whether voluntary or involuntary, by operation of law, under legal process of proceedings, by receivership, in bankruptcy, or otherwise, and no attempted subletting thereof of any Temporary Anchoring Permit is valid or effective and shall automatically terminate any Temporary Anchoring Permit. Sale or transfer of a vessel covered by a Temporary Anchoring Permit immediately revokes the permit and transfers no rights or privileges inherent in the Temporary Anchoring Permit, nor guarantees the issuance of a new Temporary Anchoring Permit.

SECTION 4.4 Temporary Anchoring Permits may be reassigned at the discretion of the Harbor Master if an orderly administration of the anchoring so requires. Holders of a Temporary Anchoring Permit may apply for reassignment; however, reassignment is not a right or privilege inherent in the Temporary Anchoring Permit.

SECTION 4.5 Vessels to which Temporary Anchoring Permit apply may be temporarily assigned or reassigned to other areas under the control of the District to accommodate repairs, improvements, maintenance, construction, emergencies, or when

necessary in order to permit maximum efficient public utilization of the facilities.

SECTION 4.6 Any Temporary Anchoring Permit may be revoked immediately by the Harbor Master if the holder thereof violates any provision of this Ordinance, or any provision of the Temporary Anchoring Permit.

SECTION 4.7 As a condition to the issuance of a Temporary Anchoring Permit, the holder thereof shall at all times keep the Harbor Master informed of his/her current mailing address, telephone numbers and legal owner's name, address and telephone number, and that of any agent of the vessel or owner. The holder thereof shall also notify the Harbor Master immediately upon any change of ownership of the vessel to which the Temporary Anchoring Permit applies, and shall further notify the Harbor Master immediately upon vacating the anchorage assigned to the vessel. Failure to keep the Harbor Master informed as to the provisions set forth in the paragraph shall be grounds for revocation of the Temporary Anchoring Permit by District forthwith.

SECTION 4.8 Upon posting a notice on the vessel, notice by certified mail, return receipt requested, or by personal service delivered to the holder of a Temporary Anchoring Permit that the Temporary Anchoring Permit has been revoked by the District pursuant to this ordinance, and after the expiration of three (3) days from the date when said notice was posted on the vessel, personally delivered or Permittee was personally located but refused personal service, or three (3) days from the date that the certified mail was accepted or refused or unclaimed, the Harbor Master may remove any vessel or other personal property left by the holder thereof upon the District's jurisdiction and dispose of the same in such manner as the District may deem proper including sale or destruction of vessel or other personal property at the vessel owners and/or Temporary Anchoring Permit holder's expense.

ARTICLE V

REFUSAL OF PERMIT

SECTION 5.1 The District may refuse a Temporary Anchoring Permit to any vessel, that in the opinion of the Harbor Master poses a threat to the health, safety, or security of Humboldt Bay or in the professional judgement of the Harbor Master is in any of the following conditions: is being operated with any of the eight unsafe conditions specified in Title 14 of the California Code of Regulations, section 6550.5 (d) (1) through (8), or may present adverse effects to air, water, land, environment, and ecology, or pursuant to Section 523 of the Harbors and Navigation Code. A Permit may be denied if the vessel places an unreasonable burden on the natural resources of the area, on the public health and safety and air and water quality in the vicinity, or on parks, recreational and scenic areas, historic sites and buildings, or archeological sites in the jurisdiction of the District.

SECTION 5.2 The District is not liable in any manner or for any cause whatsoever for any vessel or its contents, gear, and equipment thereof, or any loss or damage or theft thereto howsoever occasioned due to refusal of a Temporary Anchoring Permit.

ARTICLE VI
RATES; PAYMENT OF RATES

SECTION 6.1 Anchoring rates and charges for Temporary Anchoring Permit shall be set by Resolution by the Board of Commissioners.

SECTION 6.2 All anchoring fees and other charges are payable in full at the time of issuance by the District of the Temporary Anchoring Permit. Failure to pay anchoring fees and other charges within three (3) days of due date shall be a violation of this ordinance. All fees must be paid in full at the District office located on Woodley Island, 601 Startare Drive, Eureka, California.

SECTION 6.3 Receipts shall be prepared for all moneys paid.

SECTION 6.4 (a) By anchoring or mooring a vessel in Humboldt Bay without obtaining a Temporary Anchoring Permit or acceptance of a Temporary Anchoring Permit, a vessel owner, operator, master, agent, or Permittee consents to the exercise of personal jurisdiction in either Federal U.S. District Court, Northern District or State of California Superior Court, and the removal of the vessel by the Harbor Master and the existence of a possessory lien under the Boaters Lien Law of the State of California (commencing with Section 500 of the Harbors and Navigation Code) and a maritime lien for any amounts due and payable for a Temporary Anchoring Permit or other charges incurred under this Ordinance without the requirement for further notice of a possessory lien against the vessel under the Boaters Lien Law or a maritime lien under Section 31343 of Title 46, United States Code in the amount of the fees and charges, including actual fees and costs of enforcement and attorneys fees, and to the arrest of the vessel by the United States Marshal or an individual appointed for, or serving that purpose, the recording of the lien against the vessel and lien foreclosure, and the sale of the vessel under a Marshal's sale, and to the exercise of personal jurisdiction over the owner, operator, master or agent responsible for anchoring or mooring the vessel in Humboldt Bay, or the Permittee, and to the exercise of any other available remedy under Federal or State law.

(b) The owner, operator, or master of any foreign flag or United States documented vessel shall appoint a local agent who is responsible for paying any fees or charges incurred, posting a bond or undertaking, or the removal or disposition of an

abandoned vessel under this Ordinance.

(c) The provisions of Subsection (a) of this section shall be posted in a sign and prominently displayed at the Woodley Island Marina, at the Harbor Master's office, on the District web site and included in any Temporary Anchoring Permit in not less than 14 point bold print.

ARTICLE VII

RULES AND REGULATIONS

SECTION 7.1 It is unlawful for any person to present false identification, license or evidence of vessel ownership or possession to the Harbor Master or any peace officer, or to willfully injure, break, remove or tamper with any part of any vessel under Temporary Anchoring Permit, or to climb into or upon any vessel without the consent of the owner unless in the performance of official duties or to protect life, property and environment.

SECTION 7.2 No person may throw, discharge, or deposit from any vessel or from the shore, float, or in any other manner any refuse matter, human waste, contaminated bilge water, or garbage of any kind whatsoever, on or upon the banks, walls, sidewalks, or parking area waters within the boundaries of the Harbor.

SECTION 7.3 No person may leave dead animals, fish, shellfish, bait, or other putrefying matter on or along seawalls, harbor structures, floats, piers, sidewalks, or parking areas of the Harbor.

SECTION 7.4 No person on board any vessel anchored in Humboldt Bay may use the sanitary facilities, toilet, and sinks on board such vessel unless it is equipped with a holding tank that is in proper working order. All vessels having a Temporary Anchoring Permit shall have dye tablets deposited into the holding tanks on board the vessel and may be required to show proper working order of sanitary facilities so as to not discharge any waste into the waters of Humboldt Bay.

SECTION 7.5 No person holding a Temporary Anchoring Permit may engage in exterior power spray painting. The sanding of surfaces shall be by hand or small power sanders (preferably vacuum sanders). All persons engaged in the sanding and painting of surfaces shall control all sand, paint, and dust and keep the same out of the waters of Humboldt Bay.

SECTION 7.6 At such time as it may become necessary to perform work on board a vessel involving use of welding or burning equipment, every person intending to engage in welding or burning on board a vessel shall notify the District of the nature and extent of the proposed work, the workman or company doing the work and the date and time the

work shall be performed. This notification shall be given to the District prior to the start of work and whenever practicable at least one (1) day before the work is to be performed. All vessels engaged in such welding or burning shall ensure that properly charged fire extinguishers are readily available in case of fire.

SECTION 7.7 All anchoring lines, chains, and equipment shall be provided by the Permittee and shall be sufficient number, strength and size to insure that vessel remain securely anchored under all conditions.

SECTION 7.8 Owner(s) of vessel and Permittee of a Temporary Anchoring Permit and person(s) in possession of vessels are responsible for crews and guests aboard a vessel for compliance with all rules, regulations and provisions of the Temporary Anchoring Permit while at anchor.

SECTION 7.9 All vessels are required to be either currently documented with the United States Government or currently registered with a state and must remain currently documented or registered to retain a Temporary Anchoring Permit. All foreign vessels must have proper United States Customs Service clearance.

SECTION 7.10 Speed within the Eureka Channel Inner Reach, Woodley Island Marina, Eureka Public Marina, and other marinas shall be limited to five (5) miles per hour.

SECTION 7.11 No vessel may anchor within the Exclusion Zone.

SECTION 7.12 Nothing in this ordinance relieves the Permittee of complying with all other applicable local, state, federal, or international law.

ARTICLE VIII

NON-PERMITTED VESSEL PROCEDURE

SECTION 8.1 Any vessel moored, anchored or aground in excess of seventy-two (72) hours in Humboldt Bay without a valid Anchoring Permit, would be considered to be a non-permitted vessel.

SECTION 8.2 The Harbor Master shall immediately initiate proceedings under this Section to remove or secure the removal of a non-permitted vessel from Humboldt Bay.

SECTIONS 8.3 In addition to a maritime or statutory lien against the vessel, the vessel owner, operator, master or agent of record are jointly and severally liable for the

actual costs of removal, emergency repairs, storage, disposition and forfeiture of the vessel.

SECTION 8.4 The Harbor Master shall serve notice by affixing a copy of a Notice of Removal and Forfeiture to the vessel in a conspicuous place, posting a copy of the notice at the Harbor Master's office at Woodley Island Marina, posting the notice on the District web site, and by mailing a copy of the notice by first class mail with sufficient postage to the owner or operator of the non-permitted vessel, with copy to the owner, operator, master, or agent of record as previously provided.

SECTION 8.5 The form of Notice is as follows:

NOTICE OF REMOVAL AND FORFEITURE OF NON-PERMITTED VESSEL

NOTICE IS GIVEN that the numbered/ documented vessel _____
(Vessel Name), State and State number / Federal documentation number _____,
is a non-permitted vessel and subject to removal and forfeiture by
Order of the Harbor Master, Humboldt Bay Harbor District under Ordinance Number 17
of the Humboldt Bay Harbor, Recreation and Conservation District on
_____ (Date).

The vessel is ordered removed at the sole expense of the owner, operator, master or agent within seventy-two (72) hours of the date of this notice or the vessel will be removed by order of the Harbor Master and stored at the expense of the owner, operator, master, or agent for which actual costs and expenses the vessel, and the owner, operator, master and agent are jointly and severally liable. Failure to pay those accrued costs and expenses of removal, storage and emergency repairs within thirty (30) days of the removal will result in summary forfeiture of the vessel under Federal or State law without further notice required. If the vessel does not pose an immediate navigation hazard, or threat to security or the environment, at the discretion of the Harbor Master, in lieu of removal and forfeiture the vessel owner, operator, master or agent may post a bond or undertaking in the amount of the estimated cost and expense of removal and storage costs until such time as the vessel is removed by the owner, operator, master or agent.

SECTION 8.6 The Harbor Master shall, after serving notice order the owner, operator, master, or agent to remove the vessel at their expense within twenty-four (24) hours. Failure of the owner, operator, master or agent to remove the vessel within twenty-four (24) hours may result in the Harbor Master taking physical possession of the vessel and either securing or storing the vessel at a safe anchorage or facility.

SECTION 8.7 The Harbor Master shall calculate the actual costs and expenses of removal, including any repair necessary to facilitate such removal and storage, and

provide written notice to the owner, operator, master or agent at the last known address. Such actual costs may be recovered pursuant to a possessory lien or maritime lien against the vessel, or through the civil action against the owner, operator, master or agent of the vessel.

SECTION 8.8 The Harbor Master shall on the next business day:

(a) file a possessory lien with the State Department of Motor Vehicles lien under the Boater's Lien Law (commencing with Section 500 of the Harbors and Navigation Code) in the case of a California registered vessel, or the corresponding unit of State government of the State of the vessel's registry, and request an abstract of title for the registered vessel; or

(b) record a Notice of Claim of Lien with the National Vessel Documentation Center under Section 31343 of Title 46, United States Code for a documented vessel and request an abstract of title for the registered vessel; and

(c) mail a copy of the official notice of possessory lien or Notice of Claim of Lien to the vessel owner, operator, master, or agent of record;

(d) post a copy of the official notice of lien or Notice of Claim of Lien on the vessel, at the Harbor Master's office and on the District web site; and

(e) in the case of a documented vessel, seek a U.S. Coast Guard administrative determination that the vessel is abandoned and should be stricken from the documentation list.

SECTION 8.9 The Harbor Master shall enforce:

(a) the possessory lien against the vessel under the procedure set forth in the Boater's Lien Law for a California registered vessel or a vessel registered in another State by reciprocity or an undocumented vessel; or

(b) the maritime lien against a documented vessel of the United States or a foreign flag vessel by filing an action in United States District Court for the Northern District of California, requesting the United States Marshal or another person to arrest the vessel, filing a default judgement, and requesting a Marshal's sale of the vessel free of liens and encumbrances under the Federal Rules of Civil Procedure for admiralty cases;

(c) the exercise of extrajudicial remedies under Section 31325 of Title 46, United States Code; and

(d) the civil remedy for recovery of the actual costs and expenses of vessel removal and forfeiture against the vessel's owner, operator, master, or agent in either Superior Court or United State District Court as the case may be.

Passed and adopted this 9th day of June, 2004, by the Board of Commissioners of the Humboldt Bay Harbor, Recreation and Conservation District by the following polled vote:

AYES: Commissioner Curless, Commissioner Hunter, Commissioner Ollivier

NAYES:

ABSENT: Commissioner Pellegrini, Commissioner Fritzsche



RONNIE PELLEGRINI, President
Board of Commissioners

ATTEST:



RON FRITZSCHE, Secretary
Board of Commissioners