

ORDINANCE NO. 1*

**AN ORDINANCE OF THE
BETHEL ISLAND MUNICIPAL IMPROVEMENT DISTRICT
CREATING A SET OF DEFINED TERMS APPLICABLE
TO CERTAIN ORDINANCES, RESOLUTIONS AND REGULATIONS
OF THE DISTRICT**

Be it ordained by the Board of Directors of the Bethel Island Municipal Improvement District, as follows:

CHAPTER 1.01. INTRODUCTORY PROVISIONS RE: DEFINED TERMS.

Section 1.01.010. Finding.

The Board of Directors of the Bethel Island Municipal Improvement District hereby finds that, in order to provide for the efficient use of the ordinances, resolutions, regulations and other documents of the District, it is in the best interests of the District to establish a set of defined terms and rules for interpreting terms, for incorporation by reference into some of the ordinances, resolutions, regulations and other documents of the District.

[Enacted March 19, 2009.]

Section 1.01.020. Incorporation by Reference.

(A) The defined terms and rules for interpreting terms, as contained in Chapter 1.02 and Chapter 1.03 of this Ordinance, may be incorporated by reference into any other ordinance, resolution, regulation, or document of the Bethel Island Municipal Improvement District by a reference to this Ordinance contained in such ordinance, resolution, regulation or document. Once incorporated by reference, the defined terms and rules for interpreting terms, as contained in Chapter 1.02 and Chapter 1.03 of this Ordinance, shall apply to the interpretation of the ordinance, resolution, regulation or document into which they have been incorporated by reference.

(B) Nothing in this section shall be interpreted as preventing an ordinance, resolution, regulation, or document of the Bethel Island Municipal Improvement District from having both definitions that are incorporated by a reference to this Ordinance and special definitions that are unique to such ordinance, resolution, regulation, or document.

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* Former Ordinance 1, dealing with meetings and procedures, was enacted on July 8, 1960 and was subsequently amended on May 19, 2005. On March 15, 2007 Resolution No. 07-03-15B was adopted, which renumbered former Ordinance 1 as Ordinance 2.

(C) Nothing in this section shall be interpreted as preventing an ordinance, resolution, regulation, or document of the Bethel Island Municipal Improvement District from having both rules for interpreting terms that are incorporated by a reference to this Ordinance and special rules for interpreting terms that are unique to such ordinance, resolution, regulation, or document.

[Enacted March 19, 2009.]

Section 1.01.030. Effect of Amendments to Defined Terms.

(A) Any subsequent amendment to any of the defined terms and/or rules for interpreting terms contained in Chapter 1.02 or Chapter 1.03 of this Ordinance shall automatically apply to each and every ordinance, resolution, regulation and document into which such defined terms and/or rules for interpreting terms have been incorporated by reference, without the need to re-enact or re-adopt such ordinance, resolution, regulation or document.

(B) Notwithstanding subsection (A) of this Section, above, any subsequent amendment to any defined term or rule for interpreting a term in Chapter 1.02 or Chapter 1.03 of this Ordinance may expressly specify that such amendment shall only apply to subsequently enacted or adopted ordinances, resolutions, regulations and/or documents.

[Enacted March 19, 2009.]

Section 1.01.040. Plural Form of Defined Term.

When a defined term, as contained in Chapter 1.02 or Chapter 1.03 of this Ordinance, has been incorporated by reference into an ordinance, resolution, regulation or document of the Bethel Island Municipal Improvement District, the singular form of that defined term shall include the plural form of that term, unless the context where the defined term appears indicates that the plural form is excluded.

[Enacted March 19, 2009.]

Section 1.01.050. Capitalization of Defined Term.

When a defined term, as contained in Chapter 1.02 or Chapter 1.03 of this Ordinance, has been incorporated by reference into an ordinance, resolution, regulation or document of the Bethel Island Municipal Improvement District: (a) the defined term may, but is not required to, appear in all capital letters; and (b) the plural form of the defined term may, but is not required to, appear in all capital letters.

[Enacted March 19, 2009.]

Section 1.01.060. Words Not Specifically Defined in Ordinances.

(A) When terms are not defined in this or another ordinance of the Bethel Island Municipal Improvement District, they shall have their ordinary accepted meanings within the context with which they are used. The most current version of Merriam Webster's Collegiate Dictionary shall be considered as providing ordinary accepted meanings.

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(B) This section shall apply to all ordinances, resolutions, regulations and other documents of the Bethel Island Municipal Improvement District without the need to incorporate this section by reference.

[Enacted March 19, 2008. Subsection (A) is based upon City of Ukiah Ordinance 1018, §1.]

Section 1.01.070. Provision Unique to 2009 Enactment.

The Board of Directors of the Bethel Island Municipal Improvement District hereby finds and declares that the enactment of Ordinance 1 in 2009 is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that the enactment of Ordinance 1 in 2009 is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

[Enacted March 19, 2009.]

**CHAPTER 1.02. DEFINED TERMS
AND RULES FOR INTERPRETING TERMS
(A-K)**

Section 1.02.010. Definition of “ADMINISTRATIVE ASSISTANT.”

The term “ADMINISTRATIVE ASSISTANT” shall mean the Administrative Assistant of the Bethel Island Municipal Improvement District. The ADMINISTRATIVE ASSISTANT shall be the “clerk” of the DISTRICT.

[Enacted March 19, 2009. Derived, in part, from Government Code section 54955 (requiring, by implication, that the DISTRICT have a “clerk” separate from the BOARD SECRETARY).]

Section 1.02.020. Definition of “AIRGUN.”

The term “AIRGUN” shall mean any handgun, shotgun or rifle that uses compressed air or carbon dioxide to propel a projectile, excluding toys that do not expel a projectile capable of penetrating a target or other surface.

[Enacted March 19, 2009.]

Section 1.02.030. Definition of “BATHYMETRIC DATA.”

The term “BATHYMETRIC DATA” shall mean data memorializing the water depth in any slough surrounding the ISLAND, and which: (a) is expressed in feet between the bottom of the slough and the elevation of mean high tide, or some other water level approved by the DISTRICT ENGINEER, at the location where the data is gathered; (b) is obtained along a straight line or lines perpendicular to the LEVEE; and (c) is tied in some fashion to NGVD or some other datum approved by the DISTRICT ENGINEER.

[Enacted March 19, 2009.]

Section 1.02.040. Definition of “BIMID.”

The term “BIMID” shall mean the Bethel Island Municipal Improvement District.

[Enacted March 19, 2009.]

Section 1.02.050. Definition of “BIMID ACT.”

The term “BIMID ACT” shall mean the Bethel Island Municipal Improvement District Act, Chapter 22 of the Statutes of 1960, First Extraordinary Session, as amended.

[Enacted March 19, 2009.]

Section 1.02.060. Definition of “BIMID LEVEE STATION.”

The term “BIMID LEVEE STATION” shall mean the engineer’s stations established for the LEVEE surrounding the ISLAND, with Station 0+00 being located at the DISTRICT pumping plant near the intersection of Taylor Road and Canal Road, and running clockwise around the

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ISLAND from there. The beginning point at Station 0+00 is the same as the ending point at Station 607+46.12.

[Enacted March 19, 2009.]

Section 1.02.070. Definition of “BOARD” and “BOARD OF DIRECTORS.”

The term “BOARD” and the term “BOARD OF DIRECTORS” shall mean to the Board of Directors of the Bethel Island Municipal Improvement District.

[Enacted March 19, 2009.]

Section 1.02.080. Definition of “BOARD POLICY HANDBOOK.”

The term “BOARD POLICY HANDBOOK” shall mean the “Board Policy Handbook” as adopted by the BOARD OF DIRECTORS and amended from time to time.

[Enacted March 19, 2009.]

Section 1.02.090. Definition of “BOARD SECRETARY.”

The term “BOARD SECRETARY” shall mean the member of the BOARD OF DIRECTORS who has been elected as the Secretary of the Bethel Island Municipal Improvement District.

[Enacted March 19, 2009.]

Section 1.02.100. Definition of “BOAT.”

The term “BOAT” shall mean any vessel for transport by water regardless of size, use, construction, or method of propulsion.

[Enacted March 19, 2009.]

Section 1.02.110. Definition of “BOAT RAMP.”

The term “BOAT RAMP” shall mean an inclined surface on the WATERSIDE of the LEVEE, normally used for launching a BOAT.

[Enacted March 19, 2009.]

Section 1.02.120. Definition of “BOW AND ARROW.”

The term “BOW AND ARROW” shall mean any bow and arrow combination, including a crossbow and arrow, excluding bow and arrow combinations considered as toys and intended to release arrows incapable of penetrating a target or other surface.

[Enacted March 19, 2009.]

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Section 1.02.130. Definition of “BRANDISHING.”

The term “BRANDISHING” shall mean: (i) to shake or wave menacingly, when not necessary to protect life or property; or (ii) to exhibit in an ostentatious or aggressive manner, when not necessary to protect life or property.

[Enacted March 19, 2009.]

Section 1.02.140. Definition of “BULKHEAD.”

The term “BULKHEAD” shall mean a man-made vertical or nearly vertical wall or barrier constructed on the waterside of the LEVEE, which: (a) protects against erosion; (b) protects against wave action; and/or (c) protects land from sliding, slumping or washing into the water.

[Enacted March 19, 2009.]

Section 1.02.150. Definition of “CAMPING.”

The term “CAMPING” shall mean to establish or pitch, or attempt to establish or pitch, a camp, tent, or temporary shelter or to reside temporarily or otherwise in any camp, tent or temporary shelter.

[Enacted March 19, 2009.]

Section 1.02.160. Definition of “CEQA.”

The term “CEQA” shall mean the California Environmental Quality Act, California Public Resources Code sections 21000, *et seq.*

[Enacted March 19, 2009.]

Section 1.02.170. Definition of “CEQA GUIDELINES.”

The term “CEQA GUIDELINES” shall mean guidelines adopted by the Secretary of the Resources Agency pursuant to California Public Resources Code section 21083.

[Enacted March 19, 2009. Note: The Guidelines may be found in Chapter 3 (commencing with Section 15000) of Division 6, Title 14, of the California Code of Regulations.]

Section 1.02.180. Definition of “CONSULTANT.”

The term “CONSULTANT” shall mean any professional from whom a consultation is obtained, including but not limited to engineers, land surveyors, appraisers, and attorneys.

[Enacted March 19, 2009.]

Section 1.02.190. Definition of “COUNTY.”

The term “COUNTY” shall mean Contra Costa County within the State of California.

[Enacted March 19, 2009.]

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Section 1.02.200. Definition of “CULVERT.”

The term “CULVERT” shall mean a pipe, covered gutter or other covered conduit through which DRAINAGE WATER flows and/or is likely to flow in the future.

[Enacted March 19, 2009.]

Section 1.02.210. Definition of “DECISION MAKING BODY.”

The term “DECISION MAKING BODY” shall mean the DISTRICT body authorized to approve or deny the issuance of a DISTRICT APPROVAL, and shall be either the BOARD OF DIRECTORS or the PROJECT APPROVAL COMMITTEE. At all times when there is no PROJECT APPROVAL COMMITTEE, the term “DECISION MAKING BODY” shall mean the BOARD OF DIRECTORS.

[Enacted March 19, 2009.]

Section 1.02.220. Definition of “DEFAULT DESIGN LEVEE.”

The term “DEFAULT DESIGN LEVEE” shall mean the default design for the width and height of the LEVEE, which, to the extent not met or exceeded, and absent any site-specific data, the DISTRICT intends to achieve or exceed through reconstruction, rehabilitation or maintenance of the existing LEVEE.

[Enacted March 19, 2009.]

Section 1.02.230. Definition of “DEPOSIT-BASED FEE.”

The term “DEPOSIT-BASED FEE” shall mean a fee collected by the DISTRICT against which the DISTRICT shall deduct funds in accordance with the provisions of the ordinance or resolution establishing and/or setting the amount of such fee. The term “DEPOSIT-BASED FEE” also includes subsequent deposits made after an initial DEPOSIT-BASED FEE has been depleted.

[Enacted March 19, 2009.]

Section 1.02.240. Definition of “DESIGNATED LEVEE PARKING AREA.”

The term “DESIGNATED LEVEE PARKING AREA” shall mean that area of the LEVEE which the DISTRICT has designated for the parking of MOTOR VEHICLES and/or TRAILERS.

[Enacted March 19, 2009.]

Section 1.02.250. Definition of “DEVELOPMENT PROJECT.”

The term “DEVELOPMENT PROJECT” shall mean any PROJECT not included within the definitions of “MINOR IMPROVEMENT PROJECT,” “NEW STRUCTURE PROJECT,” “LEVEE PROJECT” or “DOCK PROJECT.” The term “DEVELOPMENT PROJECT” includes, but is not limited to: (a) subdivisions; (b) lot splits; (c) non-residential STRUCTURES such as office buildings, warehouses and meeting halls; (d) STRUCTURES containing more than

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Section 1.02.320. Definition of “DISTRICT MANAGER.”

The term “DISTRICT MANAGER” shall mean the District Manager of the Bethel Island Municipal Improvement District. If there is no District Manager, the term “DISTRICT MANAGER” shall mean the person designated by the BOARD as the Acting District Manager.

[Enacted March 19, 2009.]

Section 1.02.330. Definition of “DISTRICT’S DRAINAGE SYSTEM.”

The term “DISTRICT'S DRAINAGE SYSTEM” shall mean each and every DITCH, crossing of a DITCH, CULVERT, pipe, pipeline, pump and pond owned, operated or maintained by the DISTRICT and used for the collection or transmission of DRAINAGE WATER, including those areas appurtenant thereto necessary for the proper and convenient maintenance and operation of the same.

[Enacted March 19, 2009.]

Section 1.02.340. Definition of “DISTRICT VEHICLE.”

The term "DISTRICT VEHICLE" shall mean any type of vehicle owned or operated by the DISTRICT while being used by a DIRECTOR, employee, agent, contractor or CONSULTANT of the DISTRICT, in their official capacity and while performing DISTRICT services or operations. Additionally, the term “DISTRICT VEHICLE” shall include a vehicle owned or operated by a contractor or CONSULTANT of the DISTRICT while performing services for the DISTRICT. A DISTRICT VEHICLE includes, but is not limited to, automobiles, trucks, backhoes, excavators and dump trucks.

[Enacted March 19, 2009.]

Section 1.02.350. Definition of “DITCH.”

The term “DITCH” shall mean a trench dug in the earth, within the DISTRICT, in which DRAINAGE WATER is collected and/or transported for eventual pumping from the ISLAND. The term “DITCH” includes a canal.

[Enacted March 19, 2009.]

Section 1.02.360. [Reserved for possible future definition of “DITCH MAINTENANCE SETBACK.”]

Section 1.02.370. Definition of “DOCK.”

The term “DOCK” shall include all of the following: (a) a dock constructed partially or wholly over a waterway; (b) a pier constructed partially or wholly over a waterway; (c) a wharf constructed partially or wholly over a waterway; and (d) a PILING in the water, physically connected to a dock, pier or wharf.. The term “DOCK” does not include a PILING in the water that is not connected to a dock, pier or wharf..

[Enacted March 19, 2009.]

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Section 1.02.380. Definition of “DOCK PROJECT.”

The term “DOCK PROJECT” shall mean a PROJECT within the DISTRICT which exists, wholly or partially, on the LEVEE CROWN and/or on the waterside of the waterside edge of the LEVEE CROWN, and which involves the construction, improvement, alteration, addition, repair and/or demolition of any of the following: (a) a DOCK; and/or (b) a gang plank, pedestrian ramp or pedestrian walkway leading from a DOCK to the LEVEE. The term “DOCK PROJECT” includes both interior and exterior construction, improvement, alteration, addition, repair and/or demolition of a DOCK.

[Enacted March 19, 2009.]

Section 1.02.390. Definition of “DRAINAGE WATER.”

The term “DRAINAGE WATER” shall include seepage, ground water, storm water, irrigation return flow, and water from any other source contributing to the waters to be removed from the ISLAND.

[Enacted March 19, 2009.]

Section 1.02.400. Definition of “EMERGENCY VEHICLE.”

The term “EMERGENCY VEHICLE” shall mean a vehicle operated by a Game Warden, the Department of Water Resources, the Federal Emergency Management Agency (“FEMA”), sheriff’s department, fire department, ambulance service, and similar type of agency providing patrol and/or emergency services, when being operated in their official capacity in performing appropriate services or operations on behalf of the agency operating them.

[Enacted March 19, 2009.]

Section 1.02.410. Definition of “ENVIRONMENTAL IMPACT REPORT” and “EIR.”

The terms “ENVIRONMENTAL IMPACT REPORT” and “EIR” shall have the same meaning as defined in California Public Resources Code section 21061.

[Enacted March 19, 2009.]

Section 1.02.420. [Reserved for possible future definition of “ENVIRONMENTAL REVIEW OFFICER” and “ERO.”]

[Note: A definition of “ENVIRONMENTAL REVIEW OFFICER” appeared in the 1988 version of Ordinance 6, and the Board may determine, at some time in the future, to again have such an Officer.]

Section 1.02.430. Definition of “FINAL ENVIRONMENTAL IMPACT REPORT” and “FEIR.”

The terms “FINAL ENVIRONMENTAL IMPACT REPORT” and “FEIR” shall mean a document prepared in compliance with Section 15132 of the State CEQA GUIDELINES.

[Enacted March 19, 2009.]

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Section 1.02.440. Definition of “FIREARM.”

The term “FIREARM” shall include:

- (a) any rifle, shotgun, revolver, pistol, cannon, and any other device designed to be used as a weapon from which a projectile is expelled by the force of any explosion or other form of combustion, excluding toys that do not expel a projectile capable of penetrating a target or other surface; and
- (b) the frame or receiver of any rifle, shotgun, revolver, pistol, cannon, or other device designed to be used as a weapon from which a projectile is expelled by the force of any explosion or other form of combustion, excluding toys that do not expel a projectile capable of penetrating a target or other surface.

[Enacted March 19, 2009. Derived, in part, from Penal Code section 12001.]

Section 1.02.450. Definition of “FISHING.”

The term “FISHING” shall mean catching or attempting to catch fish, shellfish, or other aquatic animals by use of a pole, line, net, or other device or implement.

[Enacted March 19, 2009.]

Section 1.02.460. Definition of “FIXTURE.”

The term “FIXTURE” shall mean anything built or constructed, (except GRADING and STRUCTURES), including but not limited to a landing, gang plank (other than from a DOCK), pedestrian ramp (other than from a DOCK), pedestrian walkway (other than from a DOCK), a wooden stairway constructed on the landside slope of the LEVEE for the purpose of gaining access to the LEVEE CROWN, gate, fence, barricade, swimming pool, hot tub, BULKHEAD, wall (including retaining wall), pipeline, conduit, vault, post and pole.

[Enacted March 19, 2009.]

Section 1.02.470. Definition of “FLOATING HOME.”

The term “FLOATING HOME” means a constructed thing that has all of the following characteristics:

- (a) It is stationary in or on the water because it is: (i) permanently grounded; or (ii) supported by a flotation system and held in place by a PILING, DOCK or mooring device(s).
- (b) It is incapable of being used for self-propelled navigation.
- (c) It is designed and built to be used, or is modified to be used, or is used, or is represented as being, a residence, place of business, office, hotel or motel, restaurant or lounge, clubhouse, meeting facility, storage facility, or similar facility.

Incidental or limited movement of a constructed thing upon water, or resting partially or entirely on submerged soil, does not preclude the constructed thing from being classified as a “FLOATING HOME.” Registration of a constructed thing as a vessel with the California

Department of Motor Vehicles does not preclude the constructed thing from being classified as a “FLOATING HOME.” A houseboat or live-a-board that is permanently moored or grounded and is incapable of self-propelled navigation is a “FLOATING HOME.”

[Enacted March 19, 2009.]

Section 1.02.480. Definition of “GRADING.”

The term “GRADING” shall mean the alteration of the surface of the land by the addition and/or removal of soil, sand, rock and/or peat, even if such materials come from, or are removed to, another location on the same PARCEL OF LAND. “GRADING” includes, but is not limited to, excavating, filling, stockpiling, terracing, road building, ditch digging, leveling and/or bulldozing on any PARCEL OF LAND.

[Enacted March 19, 2009.]

Section 1.02.490. Definition of “GROUP MAINTAINED DITCH.”

The term “GROUP MAINTAINED DITCH” shall mean a DITCH, the maintenance of which is the joint responsibility of two or more owners of separate PARCELS OF LAND by virtue of an agreement entered into by such owners or their predecessors in interest.

[Enacted March 19, 2009.]

Section 1.02.500. Definition of “IMPERVIOUS SURFACE.”

The term “IMPERVIOUS SURFACE” shall mean any exterior surface through which storm water does not percolate, including but not limited to asphalt, concrete, brick, tile, metal, and wood.

[Enacted March 19, 2009.]

Section 1.02.510. Definition of “INCENDIARY ROCKET.”

The term “INCENDIARY ROCKET” includes any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

[Enacted March 19, 2009. Derived from Penal Code section 12001.]

Section 1.02.520. Definition of “INVENTORY OF DITCHES.”

The term “INVENTORY OF DITCHES” shall mean the most current version of an inventory of the DITCHES on the ISLAND adopted by the BOARD OF DIRECTORS and maintained in the office of the DISTRICT. Such inventory may be in the form of one or more maps and/or one or more lists.

[Enacted March 19, 2009.]

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Section 1.02.530. Definition of “ISLAND.”

The term "ISLAND" shall mean that certain land mass, surrounded by water, known as “Bethel Island” in Contra Costa County, California.

[Enacted March 19, 2009.]

Section 1.02.540. Use of Term “Island Side.”

The term “island side” is synonymous with the term “landside.”

[Enacted March 19, 2009.]

**CHAPTER 1.03. DEFINED TERMS
AND RULES FOR INTERPRETING TERMS
(L-Z)**

Section 1.03.010. Use of Term “Landside.”

(A) When the term “landside” is used with reference to a LEVEE, it means the side of the LEVEE generally facing toward the interior of the ISLAND. When the term “landside” is used with reference to an edge of the LEVEE CROWN, it means the edge of the LEVEE CROWN farthest away from the water surrounding the ISLAND.

(B) The term “landside” is synonymous with the term “island side.”

[Enacted March 19, 2009.]

Section 1.03.020. Definition of “LANDSIDE TOE.”

(A) The term “LANDSIDE TOE,” when used in the context of an existing LEVEE, shall mean the point at which the landside sloped side of the existing LEVEE intersects the existing land surface of the ISLAND.

(B) The term “LANDSIDE TOE,” when used in the context of the DEFAULT DESIGN LEVEE, shall mean the point at which the landside sloped side of the DEFAULT DESIGN LEVEE intersects: (i) the existing land surface of the ISLAND; or (ii) in the case of an OVERSIZED LEVEE, the existing land surface of the ISLAND projected horizontally toward the water.

[Enacted March 19, 2009.]

Section 1.03.030. Definition of “LATENT DITCH.”

The term “LATENT DITCH” means linear strips that fall into either of the following categories: (a) an area where the DISTRICT has a recorded easement for a DITCH, but where no DITCH exists at the present time; or (b) an area where there has been a DITCH in the past (other than a PRIVATE DITCH), but where no DITCH presently exists, if the DISTRICT has not executed a written release or quitclaim as to such DITCH and if a court of competent jurisdiction has not issued a judgment declaring that the DISTRICT has no interest in such DITCH.

[Enacted March 19, 2009.]

Section 1.03.040. [Reserved for possible future Definition of “LEGAL NONCONFORMING OBJECT.”]

Section 1.03.050. Definition of “LEAD AGENCY.”

The term “LEAD AGENCY” shall have the same meaning as the term “lead agency” as defined in Section 15367 of the State CEQA GUIDELINES.

[Enacted March 19, 2009.]

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Section 1.03.060. Definition of “LEVEE.”

The term “LEVEE” shall mean the entirety of the embankment which surrounds the ISLAND and restrains the waters of the San Joaquin-Sacramento River Delta, including, but not limited to, Piper Slough, Taylor Slough, Sand Mound Slough, Dutch Slough, and Big and Little Frank's Tracts; such embankment extends from the LANDSIDE TOE of the LEVEE to the WATERSIDE TOE of the LEVEE.

[Enacted March 19, 2009.]

Section 1.03.070. Definition of “LEVEE CROWN.”

The term “LEVEE CROWN” shall mean the entirety of the flat, or nearly flat, area at the top of the LEVEE, which lies between the descending sloped embankment on the waterside of the LEVEE, and the descending sloped embankment on the landside of the LEVEE.

[Enacted March 19, 2009.]

Section 1.03.080. [Reserved for possible future Definition of “LEVEE IMPACT ZONE.”]

Section 1.03.090. Definition of “LEVEE PROJECT;” Examples.

(A) Except as provided below in this subsection (B) of this Section, the term “LEVEE PROJECT” shall mean any of the following: (a) a PROJECT by which the LEVEE is altered in any way; (b) a PROJECT which involves the placing of any STRUCTURE or other object on or in the LEVEE; (c) a PROJECT which involves removing rocks, rip-rap, sheet-pile, BULKHEADs, wave-walls, or other wave-wash protection devices from the LEVEE; (d) a PROJECT which involves digging into the LEVEE; (e) a PROJECT which involves GRADING, excavating, leveling, filling, widening, raising or cutting of the material of which the LEVEE is made; and (f) a PROJECT which involves placing fill material on the LEVEE, including, but not limited to, on the LEVEE slopes, (such as fill behind a retaining wall).

(B) Notwithstanding subdivision (A) of this Section, a “LEVEE PROJECT” does not include any matter included within the definition of “MINOR IMPROVEMENT PROJECT,” nor any matter included within the definition of “DOCK PROJECT,” nor any matter allowed on the LEVEE under a DISTRICT ordinance without a DISTRICT APPROVAL.

(C) By way of examples, a “LEVEE PROJECT” includes any addition of soil to the LEVEE, the placement of sheet pile in the LEVEE, the construction of a retaining wall that results in fill being placed on a LEVEE slope, and the placement of a wall, retaining wall, wave-wall, or BULKHEAD in or on the LEVEE. By way of examples, a “LEVEE PROJECT” does not include the planting of grass on the LEVEE CROWN, utilities constructed through the LEVEE, nor the planting of ground cover on the sides of the LEVEE, provided such ground cover is allowed under a DISTRICT ordinance.

[Enacted March 19, 2009.]

Section 1.03.100. Definition of “LEVEE RAMP.”

The term “LEVEE RAMP” shall mean an inclined plane meeting all of the following criteria: (a) it is constructed of earth, peat, sand, rock, gravel, concrete and/or asphalt on the landside of the LEVEE; (b) it is constructed so that the lower end is at the elevation of the ISLAND, at least

thirty (30) feet on the landside from the LANDSIDE TOE of the LEVEE, and the upper end is at the level of the LEVEE CROWN, adjacent to the LEVEE CROWN; (c) it can be used by vehicles and/or construction equipment to gain access from the surface of the ISLAND to the LEVEE CROWN; and (d) the public or the DISTRICT owns fee title to the land under the ramp or owns an easement for the ramp.

[Enacted March 19, 2009.]

Section 1.03.110. Definition of “LEVEE SETBACK AREA.”

The term “LEVEE SETBACK AREA” shall mean an area, parallel with the centerline of the LEVEE, consisting of both the waterside levee setback and the landside levee setback, as such setbacks are adopted from time to time by the DISTRICT.

[Enacted March 19, 2009.]

Section 1.03.120. Definition of “LIVESTOCK.”

The term “LIVESTOCK” shall mean any horses, cattle, sheep, goats, pigs, or other useful animal or animals, excepting household pets, of a type kept or raised on a farm or ranch.

[Enacted March 19, 2009.]

Section 1.03.130. Definition of “LOW ISLAND LEVEE.”

The term “LOW ISLAND LEVEE” shall mean the LEVEE between BIMID LEVEE STATIONS 23+00 and 189+00.

[Enacted March 19, 2009.]

Section 1.03.140. Definition of “MINOR IMPROVEMENT PROJECT.”

(A) The term “MINOR IMPROVEMENT PROJECT” shall mean a PROJECT which exclusively involves one or more of the following acts taking place on a single PARCEL OF LAND and taking place toward the landside of the LEVEE CROWN:

- (a) the improvement of, alteration to, addition to and/or repair of the exterior of an existing STRUCTURE, provided the footprint of the STRUCTURE is not increased;
- (b) the construction of an accessory FIXTURE or STRUCTURE (such as a garage, shed, deck, gazebo, hot tub or pole) to an existing single-family STRUCTURE or an existing multi-family STRUCTURE, provided the accessory FIXTURE or STRUCTURE does not encroach into the LEVEE SETBACK AREA;
- (c) the construction of, improvement of, alteration to, addition to, or repair of, wooden walkways, gang planks and/or ramps;
- (d) the construction of, improvement of, alteration to, addition to, or repair of, tile, concrete, brick and stone walkways;

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- (e) the construction of, improvement of, alteration to, or addition to, parking pads for one or two vehicles, provided the parking pad is an accessory to an existing single-family STRUCTURE or an existing multi-family STRUCTURE;
- (f) the construction of, improvement of, alteration to, addition to, or repair of, driveways which will not exceed twenty (20) feet in width after such construction, improvement, alteration, addition, or repair;
- (g) the construction of, improvement of, alteration to, addition to, or repair of, underground utilities, conduits, vaults and pipelines;
- (h) the construction of, improvement of, alteration to, addition to, or repair of, fences and gates;
- (i) the construction of, improvement of, alteration to, addition to, or repair of, swimming pools that are entirely above ground;
- (j) the repair of: (i) swimming pools that are entirely or partially below the surface of the adjacent ground; (ii) parking pads of all types; and/or (iii) driveways exceeding twenty (20) feet in width;
- (k) the construction of, improvement of, alteration to, addition to, or repair of, walls (other than retaining walls); and
- (l) the construction of, improvement of, alteration to, addition to, or repair of, a wooden stairway constructed on the slope of the LEVEE for the purpose of gaining access to the LEVEE CROWN.

(B) In addition to the matters specified in subsection (A) of this section, the term “MINOR IMPROVEMENT PROJECT” shall mean a PROJECT which exclusively involves one or more of the following acts taking place on a single PARCEL OF LAND:

- (a) the planting of grass on the LEVEE CROWN; and
- (b) utilities constructed through the LEVEE.

(C) In addition to the matters specified in subsections (A) and (B) of this section, the term “MINOR IMPROVEMENT PROJECT” shall mean an activity which exclusively involves one or more of the following acts taking place on a single PARCEL OF LAND:

- (a) leaving, placing, maintaining, riding, driving or controlling LIVESTOCK on or over the LEVEE, and/or within the LEVEE SETBACK AREA;
- (b) Building, setting or maintaining any fire, bonfire or campfire on the LEVEE, and/or within the LEVEE SETBACK AREA, (except as allowed without a DISTRICT APPROVAL pursuant to an ordinance of the DISTRICT);
- (c) leaving, placing, storing or maintaining any of the following, on or over the LEVEE and/or within the LEVEE SETBACK AREA: (i) A podium; (ii) A bandstand; (iii) Bleachers; (iv) A mobile home; (v) A shed; (vi) A pole carport; (vii) A portable toilet; (viii) A portable office; and (ix) Any movable STRUCTURE not included within (i) through (viii), inclusive, of this subsection; and

- (d) leaving, placing, storing or maintaining any of the following on or over the LEVEE, and/or within the LEVEE SETBACK AREA, (except as allowed without a DISTRICT APPROVAL in an ordinance of the DISTRICT): (i) Any lumber, pipeline (including pipes, conduits, hoses and other devices for the transport of air or liquids), pole, pole line, cable, gate barrier, barricade, conduit, rail, DOCK, ramp, gang plank or landing; (ii) Any recreational item normally associated with a rear yard of a home, (including but not limited to a trampoline, sports equipment, picnic table, article of outdoor furniture, swing set or wading pool); (iii) Any barbeque, smoker, cooking grill and outdoor stove; (iv) Any movable object or thing of any kind (other than a STRUCTURE, MOTOR VEHICLE or a TRAILER) which obstructs or interferes, or may obstruct or interfere, with the ability of the DISTRICT or its agents or employees to conveniently monitor, inspect, maintain or repair the LEVEE; and/or (v) Any movable item or object (other than a STRUCTURE, MOTOR VEHICLE or a TRAILER) which obstructs traffic on the LEVEE CROWN.

[Enacted March 19, 2009. Note: Based upon amendments proposed to Ordinance 9 prior to 10/30/06, if a definition for “NONCONFORMING OBJECT” is subsequently enacted, a “NONCONFORMING OBJECT” may need to be excluded from subsection (A)(a) of this Section, and it may be advisable to add a subsection (A)(m) dealing with moving a “NONCONFORMING OBJECT” out of the LEVEE SETBACK AREA.]

Section 1.03.150. Definition of “MITIGATION MONITORING PROGRAM.”

The term “MITIGATION MONITORING PROGRAM” means a program specifying: (a) all mitigation measures adopted pursuant to the CEQA review process; (b) the party responsible for implementing the measure(s); (c) the timing for implementation; (d) the party responsible for ensuring compliance; and (e) the monitoring schedule to be followed in accordance with CEQA. The term “MITIGATION MONITORING PROGRAM” does not include other non-CEQA related conditions of approval.

[Enacted March 19, 2009.]

Section 1.03.160. Definition of “MOTOR VEHICLE.”

The term “MOTOR VEHICLE” shall mean all of the following:

- (a) a vehicle that is self-propelled by means of a motor of any type, except a motorized wheelchair, motorized tricycle, or motorized quadri-cycle, when operated by a PERSON who, by reason of physical disability, is otherwise unable to move about as a pedestrian; and
- (b) a vehicle capable of being propelled by both human power and one or more motors, (such as a motorized bicycle, moped or motorized scooter), except a motorized wheelchair, motorized tricycle, or motorized quadri-cycle, when operated by a PERSON who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

[Enacted March 19, 2009.]

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Section 1.03.170. Definition of “NEW STRUCTURE PROJECT.”

(A) The term “NEW STRUCTURE PROJECT” shall mean a PROJECT which involves one or more of the following acts taking place on a single PARCEL OF LAND and taking place on the landside of the LEVEE CROWN:

- (a) the construction of one STRUCTURE containing one dwelling unit on a single PARCEL OF LAND which was, at the time of its creation, in compliance with, or exempt from compliance with, the Subdivision Map Act, except for any STRUCTURE included within the definition of “MINOR IMPROVEMENT PROJECT”;
- (b) any improvement of, alteration to, addition to, and/or repair of, an existing STRUCTURE, if the footprint of the STRUCTURE is increased;
- (c) the construction of, improvement of, alteration to, addition to, or repair of, decks which encroach into the LEVEE SETBACK AREA;
- (d) the construction of, improvement of, alteration to, addition to, or repair of, retaining walls that: (i) are not located on the LEVEE; and (ii) do not result in any fill being placed on the LEVEE;
- (e) the construction of, improvement of, alteration to, or addition to, swimming pools that are entirely or partially below the surface of the adjacent ground;
- (f) the construction of, improvement of, alteration to, or addition to, parking pads not included within the definition of “MINOR IMPROVEMENT PROJECT”; and
- (g) the construction of, improvement of, alteration to, or addition to, driveways which will exceed twenty (20) feet in width after such construction, improvement, alteration, addition, or repair.

(B) For the purpose of counting the number of STRUCTURES under subsection (A)(a), the following types of STRUCTURES shall be considered a part of one dwelling unit: (a) a detached garage; (b) an attached or detached in-law unit; and (c) any STRUCTURE described in the definition of “MINOR IMPROVEMENT PROJECT.”

[Enacted March 19, 2009. Note: Based upon amendments proposed to Ordinance 9 prior to 10/30/06, if definitions for “NONCONFORMING OBJECT” and “LEVEE IMPACT ZONE” are subsequently enacted, it may be advisable to add a subsection (A)(h) to this Section, dealing with the moving of a “NONCONFORMING OBJECT” out of the LEVEE SETBACK AREA, to a location which is within a “LEVEE IMPACT ZONE.”]

Section 1.03.180. Definition of “NGVD.”

The term “NGVD” shall mean the National Geodetic Vertical Datum of 1929.

[Enacted March 19, 2009.]

Section 1.03.190. [Reserved for possible future Definition of “NONCONFORMING OBJECT.”]

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Section 1.03.200. [Reserved for possible future Definition of “NONCONFORMING STRUCTURE PROJECT.”]

Section 1.03.210. Definition of “OVERSIZED LEVEE.”

The term “OVERSIZED LEVEE” shall mean the LEVEE between BIMID LEVEE STATIONS 0+00 and 22+00, and between BIMID LEVEE STATIONS 190+00 and 607+46.12, which has the following characteristic when viewed as a cross-section: (a) The LEVEE is wider on the landside than the DEFAULT DESIGN LEVEE, so that the LANDSIDE TOE of the DEFAULT DESIGN LEVEE is located below the surface of the existing LEVEE. An “OVERSIZED LEVEE” may be wider on the waterside than the DEFAULT DESIGN LEVEE, so that the WATERSIDE TOE of the DEFAULT DESIGN LEVEE is located below the surface of the existing LEVEE.

[Enacted March 19, 2009.]

Section 1.03.220. Definition of “OWNER.”

(A) The term "OWNER," when used in the context of a PARCEL OF LAND or other real property interest, shall mean the owner or owners of record of real property. If the ownership of land, rather than a lesser interest (such as an easement), is in issue, it shall mean the owner or owners of record as shown on the latest equalized assessment role of Contra Costa County, or as otherwise known to the DISTRICT by more recent and reliable information. Such term includes a part owner, a joint owner, a tenant in common and a joint tenant.

(B) The term “OWNER,” when used in the context of personal property, shall mean the owner or owners, or reputed owner or owners, of such personal property. Such term includes a part owner, a joint owner, a tenant in common and a joint tenant.

[Enacted March 19, 2009.]

Section 1.03.230. [Reserved for possible future Definition of “OWNER OF LIVESTOCK.”]

[Note: A definition of “OWNER OF LIVESTOCK” appeared as Section 2(n) in the 7/20/89 version of Ordinance 9. A committee proposing changes to Ordinance 9 in 2006 deleted that definition from the proposed amendments.]

Section 1.03.240. Definition of “PARCEL OF LAND.”

The term “PARCEL OF LAND” shall mean a lot, parcel or other division of land as shown as a separate parcel on the most recent edition of the Contra Costa County Assessor’s maps, except: (a) if a Tax Code Line is delineated on such a map as separating two parcels in common ownership, the two parcels shall be treated as one PARCEL OF LAND; and (b) a line drawn on such a map by the County Assessor, at the request of the owner, to split a parcel into two or more parts without a subdivision map, parcel map or lot line adjustment having been approved by the COUNTY, shall be ignored and the parts shall be considered to be one PARCEL OF LAND.

[Enacted March 19, 2009.]

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Section 1.03.250. Definition of “PERSON.”

(A) Except as provided in subsection (B), the term “PERSON” shall mean any individual, company, firm, partnership, limited liability company, joint venture, association, corporation, governmental body or other legal entity.

(B) Notwithstanding subsection (A), if the context where the term “PERSON” is used indicates that it is referring to a natural person, the term “PERSON” shall mean an individual.

[Enacted March 19, 2009.]

Section 1.03.260. Definition of “PILING.”

The term “PILING” shall mean a post driven or otherwise constructed in the water, that is not physically connected to a dock, pier or wharf..

[Enacted March 19, 2009.]

Section 1.03.270. Definition of “PIPING.”

The term “PIPING,” when referring to potential LEVEE failure, shall mean the progressive development of internal erosion in the LEVEE by seepage, appearing as a hole or seam on the landside of the LEVEE, discharging water that contains soil particles.

[Enacted March 19, 2009.]

Section 1.03.280. Definition of “PRIVATE DITCH.”

The term “PRIVATE DITCH” shall mean a DITCH which is privately owned, and which can be maintained, or not maintained, at the discretion of the owner without having any appreciable adverse impact, as determined at the discretion of the DISTRICT, on the drainage of nearby properties and the ISLAND as a whole. (A DITCH which is a “PRIVATE DITCH” will most likely drain only one PARCEL OF LAND, be an agricultural DITCH, and/or be a redundant DITCH.)

[Enacted March 19, 2009.]

Section 1.03.290. Definition of “PROFILE.”

The term “PROFILE,” when used in the context of a DITCH, shall mean the elevations of the flow line along the length of the DITCH.

[Enacted March 19, 2009.]

Section 1.03.300. Definition of “PROJECT.”

The term “PROJECT” shall mean one or more of the following: (i) the demolition of, construction of, improvement of, alteration to, addition to, or repair of, any STRUCTURE on a PARCEL OF LAND within the DISTRICT; (ii) any GRADING on a PARCEL OF LAND within the DISTRICT; (iii) any planting of vegetation on the LEVEE CROWN within the DISTRICT; (iv) the placing of any STRUCTURE or other object on or in the LEVEE within the DISTRICT; (vi) removing rocks, rip-rap, sheet-pile, BULKHEADS, wave-walls, or other wave-wash

protection devices from the LEVEE within the DISTRICT; (vii) the demolition of, construction of, improvement of, alteration to, addition to, or repair of, any FIXTURE within the LEVEE SETBACK AREA in the DISTRICT.

[Enacted March 19, 2009.]

Section 1.03.310. Definition of “PROJECT APPROVAL COMMITTEE.”

The term “PROJECT APPROVAL COMMITTEE” shall mean a standing committee appointed, from time to time, by the BOARD OF DIRECTORS, comprised of two or more members of the BOARD OF DIRECTORS, whose duty is be to hear certain applications for a PROJECT, as more particularly set by an Ordinance of the DISTRICT, and to act on those applications.

[Enacted March 19, 2009.]

Section 1.03.320. Definition of “PROJECT UNDER CEQA.”

The term “PROJECT UNDER CEQA” shall have the same meaning as the term “project” as defined in Section 15378 of the State CEQA GUIDELINES.

[Enacted March 19, 2009.]

Section 1.03.330. Definition of “PROPERTY OWNER MAINTAINED DITCH.”

The term “PROPERTY OWNER MAINTAINED DITCH” shall mean a DITCH that contributes to the overall drainage of the ISLAND, the maintenance of which is the responsibility of a specific OWNER of a PARCEL OF LAND, and not the responsibility of the DISTRICT.

[Enacted March 19, 2009.]

Section 1.03.340. Definition of “RESPONSIBLE AGENCY.”

The term “RESPONSIBLE AGENCY” shall have the same meaning as the term “responsible agency” as defined in Section 15381 of the State CEQA GUIDELINES.

[Enacted March 19, 2009.]

Section 1.03.350. Definition of “RESTRICTED PORTION.”

The term “RESTRICTED PORTION,” when used in the context of a LEVEE, shall mean that area of the LEVEE declared, from time to time, to be a “restricted portion” by resolution or other action of the BOARD OF DIRECTORS.

[Enacted March 19, 2009.]

Section 1.03.360. [Reserved for possible future Definition of “RETAINING WALL.”]

[Note: A committee proposing changes to Ordinance 9 in 2006 suggested that a definition of “RETAINING WALL” be added.]

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Section 1.03.370. Definition of “SEEPAGE.”

The term “SEEPAGE” shall mean water that percolates through the earth (sand, soil, peat, mud, rock, gravel and the like), and which appears at the surface of the ground or in a DITCH. The term “SEEPAGE” includes water that naturally seeps through the LEVEE surrounding the ISLAND, and which appears near the base of the LEVEE.

[Enacted March 19, 2009.]

Section 1.03.380. [Reserved for possible future Definition of “SHEET PILE.”]

[Note: A committee proposing changes to Ordinance 9 in 2006 suggested that a definition of “SHEET PILE” be added.]

Section 1.03.390. Definition of “SITE-SPECIFIC DESIGN LEVEE.”

The term “SITE-SPECIFIC DESIGN LEVEE” shall mean the design for the width and height of the LEVEE based upon site specific data and engineering, which, to the extent not met or exceeded the DISTRICT intends to achieve or exceed through reconstruction, rehabilitation or maintenance of the existing LEVEE.

[Enacted March 19, 2009.]

Section 1.03.400. Definition of “SLOPE OF 2:1.”

The term “SLOPE OF 2:1” shall mean a slope of two horizontal units to each vertical unit. If referring to a direction from the elevation of the ISLAND up towards the LEVEE, it shall mean an ascending slope. If referring to a direction from an elevation on a LEVEE towards the ISLAND or towards the water surrounding the ISLAND, it shall mean a descending slope.

[Enacted March 19, 2009.]

Section 1.03.410. Definition of “SLOPE OF 3:1.”

The term “SLOPE OF 3:1” shall mean a slope of three horizontal units to each vertical unit. If referring to a direction from the elevation of the ISLAND up towards the LEVEE, it shall mean an ascending slope. If referring to a direction from an elevation on a LEVEE towards the ISLAND or towards the water surrounding the ISLAND, it shall mean a descending slope.

[Enacted March 19, 2009.]

Section 1.03.420. Definition of “SLOPE OF 8:1.”

The term “SLOPE OF 8:1” shall mean a slope of eight horizontal units to each vertical unit. If referring to a direction from the elevation of the ISLAND up towards the LEVEE, it shall mean an ascending slope. If referring to a direction from an elevation on a LEVEE towards the ISLAND or towards the water surrounding the ISLAND, it shall mean a descending slope.

[Enacted March 19, 2009.]

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Section 1.03.430. Definition of “SOD.”

The term “SOD” shall mean strips or squares of grass that have been cut from the soil with the roots and some soil remaining, for the purpose of transplanting to a new site.

[Enacted March 19, 2009.]

Section 1.03.440. [Reserved for possible future Definition of “STREET.”]

[Note: In a draft of proposed changes to Ordinance 4, issued prior to 10/30/06, a definition of “STREET” was included. A committee reviewing proposed changes to Ordinance 4 was in favor of using the term “public right of way fronting ... a PARCEL OF LAND” instead of “STREET.”]

Section 1.03.450. Definition of “STRUCTURE.”

The term “STRUCTURE” shall mean any building or part thereof, including but not limited to a dwelling, mobile home, apartment building, office building, commercial building, meeting hall, warehouse, garage, shed, lean-to, deck, DOCK, gang plank attached to a DOCK, pedestrian ramp attached to a DOCK, and walkway attached to a DOCK.

[Enacted March 19, 2009.]

Section 1.03.460. Use of the term “subsection;” Examples.

The term “subsection,” when used in any section of any ordinance or resolution of the DISTRICT without specifically referring to a different section thereof or a section in a different ordinance or resolution, shall mean a subsection of the section in which the term appears. (By way of example, “subsection (A)” without any further specification means subsection “(A)” of that section, and “subsection (A) of Section 2.03.010” would refer to subsection “(A)” of Section 2.03.010.)

[Enacted March 19, 2009.]

Section 1.03.470. Definition of “TOPOGRAPHIC MAP.”

The term “TOPOGRAPHIC MAP” shall mean a scaled map, prepared from the data obtained during a TOPOGRAPHIC SURVEY, on which the elevations are shown by contour lines, and upon which natural and man-made features are depicted in proper scale in relation to each other and in relation to property boundary lines.

[Enacted March 19, 2009.]

Section 1.03.480. Definition of “TOPOGRAPHIC SURVEY.”

The term “TOPOGRAPHIC SURVEY” shall mean a survey to determine the elevations of the ground surface, as well as the location of natural and man-made features, within a particular area.

[Enacted March 19, 2009.]

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Section 1.03.490. Definition of “TRAILER.”

The term “TRAILER” shall mean an unpowered vehicle having its own structure, designed for being drawn by a MOTOR VEHICLE, and designed for: (a) carrying PERSONS or property; and/or (b) as a place to live, sleep or work.

[Enacted March 19, 2009.]

Section 1.03.500. Definition of “TRANSITION LEVEE.”

The term “TRANSITION LEVEE” shall mean the LEVEE between BIMID LEVEE STATIONS 22+00 and 23+00, and between BIMID LEVEE STATIONS 189+00 and 190+00.

[Enacted March 19, 2009.]

Section 1.03.510. Definition of “TREE.”

The term “TREE” shall mean any vegetation with a trunk diameter greater than four inches or a circumference greater than twelve and one-half inches, measured 30” high off the ground.

[Enacted March 19, 2009.]

Section 1.03.520. Definition of “TYPICAL LEVEE.”

The term “TYPICAL LEVEE” shall mean a LEVEE between BIMID LEVEE STATIONS 0+00 and 22+00, and between BIMID LEVEE STATIONS 190+00 and 607+46.12, which has the following characteristics when viewed as a cross-section: (a) The LANDSIDE TOE of the DEFAULT DESIGN LEVEE is located farther away from the water surrounding the ISLAND than the LANDSIDE TOE of the existing LEVEE; and (b) the WATERSIDE TOE of the DEFAULT DESIGN LEVEE is located farther out into the water surrounding the ISLAND than the WATERSIDE TOE of the existing LEVEE.

[Enacted March 19, 2009.]

Section 1.03.530. Definition of “VEHICLE OPERATING APPROVAL.”

The term “VEHICLE OPERATING APPROVAL” shall mean any written document from the DISTRICT which grants, to an applicant seeking such an approval, the DISTRICT’s permission to operate and/or park a MOTOR VEHICLE upon a selected portion of the LEVEE surrounding the ISLAND.

[Enacted March 19, 2009.]

Section 1.03.540. Definition of “VOLUNTEER VEHICLE LEVEE ACCESS MONITOR.”

The term “VOLUNTEER VEHICLE LEVEE ACCESS MONITOR” shall mean a PERSON appointed by the BOARD OF DIRECTORS to issue a VEHICLE OPERATING APPROVAL for a specific segment of the RESTRICTED PORTION of the LEVEE, to the extent permitted in a DISTRICT ordinance.

[Enacted March 19, 2009.]

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Section 1.03.550. Definition of “WATERSIDE TOE.”

(A) The term “WATERSIDE TOE,” when used in the context of an existing LEVEE, shall mean the point at which the waterside sloped side of the existing LEVEE intersects the bottom of the waterway outside the ISLAND.

(B) The term “WATERSIDE TOE,” when used in the context of the DEFAULT DESIGN LEVEE, shall mean the point at which the waterside sloped side of the DEFAULT DESIGN LEVEE intersects: (i) the bottom of the waterway outside the ISLAND; or (ii) in the case of an OVERSIZED LEVEE, the bottom of the waterway outside the ISLAND projected horizontally toward the interior of the ISLAND.

[Enacted March 19, 2009.]

Section 1.03.560. Use of Term “Waterside.”

When the term “waterside” is used with reference to a LEVEE, it means the side of the LEVEE facing toward the water surrounding the ISLAND. When the term “waterside” is used with reference to an edge of the LEVEE CROWN, it means the edge of the LEVEE CROWN closest to the water surrounding the ISLAND.

[Enacted March 19, 2009.]

CHAPTER 1.04. INTERPRETATION & SEVERABILITY.

Section 1.04.010. Incorporation of Definitions and Rules into Other Definitions and Rules.

(A) To the extent necessary to give meaning to a definition of a term that relies, in part, upon another defined term, the definitions of terms as contained within Chapter 1.02 and Chapter 1.03 of this Ordinance are hereby incorporated by reference into each and every definition of a term contained within Chapter 1.02 and Chapter 1.03 of this Ordinance.

(C) The rules for interpreting terms, as contained within Chapter 1.02 and Chapter 1.03 of this Ordinance, are hereby incorporated by reference into each and every definition of a term and rule for interpreting a term contained within Chapter 1.02 and Chapter 1.03 of this Ordinance.

[Enacted March 19, 2009.]

Section 1.04.020. Incorporation of Definitions in This Chapter; Interpretation.

(A) The definitions of terms and rules for interpreting terms as contained within Chapter 1.02 and Chapter 1.03 of this Ordinance are hereby incorporated by reference into this Chapter, and this Chapter shall be interpreted using those definitions and rules of interpretation.

[Enacted March 19, 2009.]

Section 1.04.030. Interpretation as Restatements.

The provisions of this Ordinance, insofar as they are substantially the same as existing ordinances or regulations of the DISTRICT relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

[Enacted March 19, 2009.]

Section 1.04.040. Designation of Chapters and Sections.

The designations or names given to the various chapters, sections and subsections within this Ordinance are declared to be mere abbreviations and/or summaries of some of the primary subjects contained therein, are not intended to be full and complete summaries of the contents contained therein, and shall not be used when interpreting the meaning of any such chapter, section and/or subsection.

[Enacted March 19, 2009.]

Section 1.04.050. Use of the Words “shall” and “may.”

(A) Except as provided in subsection (B) of this section, as used in this Ordinance, the term "shall" indicates a mandatory direction, while the term "may" indicates a permissive, but not mandatory, grant of authority.

(B) The use of the word “shall” in a provision of this Ordinance is not intended to impose upon the DISTRICT, its officers, employees or agents, a mandatory duty of care toward a PERSON or property so as to provide a basis of civil liability for damages.

[Enacted March 19, 2009.]

Section 1.04.060. No Provision to Impose Greater Liability than Statute.

No provision of this Ordinance shall be interpreted to impose upon the DISTRICT, its officers, employees or agents, any greater liability than that required by statute of the State of California.

[Enacted March 19, 2009.]

Section 1.04.070. Use of Tenses.

As used in this Ordinance, the present tense includes the past and future tenses, and the future tense includes the present tense, unless the context clearly indicates a contrary intent.

[Enacted March 19, 2009.]

Section 1.04.080. Use of Gender.

As used in this Ordinance, a reference to either the masculine, feminine or neuter gender shall include the other genders.

[Enacted March 19, 2009.]

Section 1.04.090. Conflict among Provisions within Ordinance.

If there is any conflict between the provisions of one or more sections of this Ordinance, the stricter provision shall control.

[Enacted March 19, 2009.]

Section 1.04.100. Severability.

If any section, subsection, paragraph, sentence, clause or phrase within this Ordinance is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The BOARD hereby declares that it would have enacted this Ordinance and every section, subsection, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases be unconstitutional or invalid.

[Enacted March 19, 2009.]

POSTING AND EFFECTIVE DATE.

After adoption by the Board, copies of this Ordinance shall be posted in three separate places within the DISTRICT for one week. The BOARD SECRETARY or the ADMINISTRATIVE ASSISTANT shall post such copies in the manner specified. This ordinance shall become effective upon the expiration of said one week period.

* * *

Adopted by the Board of Directors of the Bethel Island Municipal Improvement District at a regular meeting on March 19, 2009, by the following vote:

AYES: Lawry, Cornfield, Rocca, Maloney, Eisenbeis
NOES: None
ABSTENTIONS: None
ABSENT: None

/s/ Marguerite Lawry
Marguerite Lawry, President of the Board

ATTEST:

/s/ Richard Cornfield
Richard Cornfield, Board Secretary

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AFFIDAVIT OF POSTING ORDINANCE
AFTER ADOPTION BY BOARD OF DIRECTORS

I, the undersigned, hereby declare, under penalty of perjury under the laws of the State of California, that the following is true and correct:

(A) I am the Board Secretary of the Bethel Island Municipal Improvement District.

(B) On April 6, 2009, I posted copies of the attached Ordinance 1 of the Bethel Island Municipal Improvement District, in three separate places within the District, as follows:

- (1) Porch post outside BIMID Hall, 3085 Stone Road, Bethel Island CA .
- (2) Power pole in front of Fire Department on Ranch Lane, Bethel Island, CA
- (3) Newspaper stand in front of Bethel Island Post Office, Bethel Island Road, Bethel Island, CA.

Dated: April 6, 2009.

/s/ Richard Cornfield
Richard Cornfield, Board Secretary

