

1 [It is unlawful to moor or anchor a vessel in Clipper Cove, a Special Use Area, for more than
2 24 hours without a valid permit issued under the auspices of the Treasure Island Development
3 Authority.]

4 **Ordinance amending the San Francisco Police Code by adding Section 1.1 designating**
5 **Clipper Cove as a Special-use Area, making it a misdemeanor to moor or anchor a**
6 **vessel in Clipper Cove without a valid permit issued by the Treasure Island**
7 **Development Authority ("TIDA"), or its designee, and allowing TIDA to remove and**
8 **store vessels moored in violation of this Ordinance.**

9
10 NOTE: Additions are *single-underline italics Times New Roman*;
11 deletions are ~~*strike-through italics Times New Roman*~~.
12 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. Purpose

15 The purpose of this ordinance is to eliminate adverse health and environmental impacts to the
16 waters and diverse flora and fauna of the San Francisco Bay, particularly in the area surrounding
17 Clipper Cove, promote the recreational use of Clipper Cove, reduce existing and potential conflicts
18 among recreational users of Clipper Cove, and protect overall public safety of users of the Cove and
19 residents of and visitors to Treasure and Yerba Buena Islands.

20 Section 2. Findings

21 Treasure Island's Clipper Cove is a semi-secluded section of San Francisco Bay that houses the
22 Treasure Island Marina and Treasure Island Sailing Center. Due to its location and lack of prevailing
23 current, Clipper Cove is renowned as a popular still water anchorage location for Bay Area boaters.

1 While Clipper Cove provides an excellent location for short-term anchorages by recreational
2 boaters, it also has attracted long-term anchorages of both abandoned and stored vessels over the past
3 several years. As of January 30, 2009, there were 15 vessels anchored in Clipper Cove, many of which
4 had been in the Cove, apparently unattended, for periods between several months and over a year. The
5 operators of the Treasure Island Marina and Treasure Island Yacht Club have received several reports
6 that some of these vessels are being used as residences, and that their occupants are dumping waste
7 and other materials overboard into Clipper Cove. The Treasure Island Development Authority
8 ("TIDA") has expended almost \$30,000 in the previous two years on the removal of derelict and
9 abandoned vessels that have sunk or washed up on the Treasure Island seawall after being anchored
10 and abandoned in Clipper Cove. In a recent incident, one of these boats came loose from its mooring
11 during a storm, washed up close to the shore, tipped over, and began spilling fuel into the Bay.

12 TIDA leases the former Naval Station Treasure Island from the United States Navy, and
13 operates the property under an agreement (the "Cooperative Agreement") between the Navy and TIDA.
14 Clipper Cove is part of the former Naval Station, and is the responsibility of TIDA under the
15 Cooperative Agreement.

16 In order to ensure that Clipper Cove remains available for use by recreational boaters, the
17 Board of Directors of the Treasure Island Development Authority wants to ensure that the Cove is not
18 cluttered with abandoned vessels, vessels being used as housing, or vessels being used for other,
19 nonrecreational uses. The TIDA Board is also concerned about the threat to the environment and the
20 public health posed by unattended vessels anchored in the Cove for extended periods of time, and the
21 possibility that individuals living aboard such vessels are releasing waste or other harmful substances
22 into the Bay.

23 To address these issues, the TIDA Board wishes to designate the Cove as a Special-use Area
24 and limit mooring in the Cove to short-term anchorage for recreational purposes. Short-term
25 anchorage in prescribed sections of the Cove will be allowed with express permission of TIDA, or its

1 designee. In connection with the establishment of the Special-use Area, the TIDA Board will develop a
2 procedure for issuing anchorage permits to recreational boaters subject to specific conditions,
3 including a maximum length of stay and compliance with Rules adopted by the TIDA Board to protect
4 the public health and safety, and preserve recreational use of the Cove. Permits will be readily
5 available to members of the public, at a nominal fee.

6 The permit procedure will allow TIDA to oversee recreational use of the Cove by requiring a
7 boater, upon request, to verify that the condition of his or her vessel does not pose an environmental
8 hazard or risk of injury to persons or property, which may include demonstrating that the vessel is not
9 at risk for capsizing or sinking, and carries an on-board waste containment system. Also, the permit
10 system will ensure that all members of the public have equal opportunity to access Clipper Cove for
11 recreational purposes, avoiding potential conflict among those who wish to use the Cove. The TIDA
12 Board does not want to create an onerous process for recreational boaters or boaters in transit wishing
13 to enjoy the Cove on a short-term basis. But the TIDA Board believes that a permit requirement and
14 the promulgation of Rules will allow TIDA to protect the waters of Clipper Cove and facilitate the
15 public's recreational use of the Cove.

16 Section 3. The San Francisco Police Code is hereby amended by adding Section 1.1, to read as
17 follows:

18 **Sec. 1.1 MOORING IN CLIPPER COVE**

19 (a) In order to promote the recreational use of Clipper Cove, reduce existing and potential
20 conflicts among recreational users of Clipper Cove, protect the overall public health and safety of
21 users of the Cove, and to eliminate adverse environmental impacts to the San Francisco Bay, Clipper
22 Cove is hereby designated a Special-use Area as that term is defined in California's Harbor and
23 Navigation Code. Provided that the Treasure Island Development Authority ("TIDA") has erected
24 signage at the entrance to the Special-use Area informing boaters of the permit requirement and the
25 method for obtaining a permit, it shall be unlawful for any person to moor or anchor any vessel in

1 Clipper Cove for more than 24 hours without a valid permit issued by TIDA, or its designee, and it
2 shall be unlawful for any person to moor or anchor any vessel in Clipper Cove for more than 24 hours
3 after expiration or revocation of such permit.

4 (b) For the purposes of Section 1.1 of this Code, Clipper Cove is defined as that section of San
5 Francisco Bay bounded by the south shore of Treasure Island, the north shore of Yerba Buena Island,
6 and the connecting causeway, west of a line extending from the southeast corner of the finger pier
7 known as "Pier 1" along the east side of Treasure Island, at about latitude 37 [degrees] 49'11",
8 longitude 122 [degrees] 21'40", approximately 153 [degrees] 20' to the northeasterly point of Yerba
9 Buena Island, at about latitude 37 [degrees] 48'55", longitude 122 [degrees] 21'30".

10 (c) A violation of the provisions of Section 1.1 shall be a misdemeanor. A person found guilty
11 of such violation shall be punished by imprisonment in the county jail not exceeding six months, or by
12 fine not exceeding one thousand dollars (\$1000.00), or both.

13 (d) Provided that TIDA has erected signage at the entrance to Clipper Cove informing boaters
14 that vessels moored in violation of this ordinance are subject to removal, TIDA, or its designee, may
15 remove and store any vessel moored, anchored or allowed to remain in Clipper Cove in violation of
16 this ordinance 72 hours after notice posted in accordance with subsection (e) of this Section. The
17 registered owner of any vessel removed and stored under this ordinance shall be responsible for
18 reimbursing TIDA, or its designee, for the cost of such removal and storage.

19 (e) Not less than 72 hours prior to removing a vessel moored or anchored in violation of this
20 Section, TIDA, or its designee, shall securely attach to the vessel a distinctive notice stating that the
21 vessel will be removed for violation of this Section.

22 (f) Within 48 hours after the removal of a vessel pursuant to this Section, excluding weekends
23 and holidays, TIDA, or its designee, must send notice of removal of the vessel to the registered,
24 documented and legal owners, if known or discovered before or after the removal, at their addresses of
25 record with the Department of Motor Vehicles, the National Vessel Documentation Center, and to any

1 other person that TIDA, or its designee, knows has an interest in the vessel, by certified or first-class
2 mail. The notice of removal shall include the following:

3 _____ (1) TIDA's name, address, and telephone number, and, if applicable, the name, address
4 and telephone number of TIDA's designee;

5 _____ (2) A description of the vessel;

6 _____ (3) The location from which the vessel was removed;

7 _____ (4) The location of the intended or actual place of storage;

8 _____ (5) The authority and purpose for removal of the vessel;

9 _____ (6) A statement that the vessel may be claimed and recovered within 15 days of the date
10 the notice of removal is issued upon payment of any costs incurred by TIDA, or its designee, related to
11 salvage and storage of the vessel;

12 _____ (7) A statement that the registered or legal owners or any other person known to have
13 an interest in the property shall have the opportunity for a post-removal hearing before TIDA, or its
14 designee, to determine the validity of the removal and storage if a request for a hearing is made to
15 TIDA, or its designee, in person, by telephone, by email or by regular mail within 10 days from the date
16 of notice; and that if the registered or legal owner or any other person known to have an interest in the
17 property disagrees with the decision of TIDA, or its designee, after the hearing, he or she may seek
18 review of the decision of TIDA, or its designee, pursuant to Section 11523 of the Government Code.

19 (f) TIDA, or its designee, shall conduct any requested hearing within 48 hours of the time it
20 receives the request, excluding weekends and holidays. TIDA may authorize its own officers or
21 employees to conduct the hearing, but the hearing officer shall not be the same person who directed the
22 removal and storage of the vessel. The failure of either the registered or legal owners or any other
23 person known to have an interest in the property to request or attend a scheduled hearing shall not
24 affect the validity of the hearing.

1 (g) TIDA shall be responsible for the costs incurred for removal and storage if it is determined
2 in the post-storage hearing that reasonable grounds for the storage are not established.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6 By: _____
7 Mariam M. Morley
8 Deputy City Attorney