

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 3943

**ORDINANCE AMENDING SECTIONS 3 OF PORT ORDINANCE
NO. 2083, AS AMENDED, TO REQUIRE APPLICANTS FOR
BUILDING PERMITS IN THE PORT AREA TO SHOW
EVIDENCE OF COMPLIANCE WITH STANDARDS AND LAWS
RELATING TO DETERMINATION OF NO HAZARD TO AIR
NAVIGATION.**

WHEREAS, the Board of Port Commissioners and its Executive Director are vested with the authority and responsibility to approve or deny permits to construct or modify buildings or structures within the Port Area in accordance with rules and regulations adopted by said Board;

WHEREAS, the rules and regulations require applicants to submit information regarding the location, use and design of the proposed construction and evidence that the applicant is complying with all laws applicable to the project, including any permit requirement;

WHEREAS, California law (Public Utilities Code Section 21659) prohibits the construction or alteration of any structure that is determined by the Federal Aviation Administration (FAA) to be an obstruction or hazard to air navigation around or in the vicinity of airports without a permit from the California Department of Transportation; and

WHEREAS, to assure the health and safety of residents, businesses and people in the Port Area, and especially, the safety of air navigation in the air space in the vicinity of the Oakland International Airport, the Port has the responsibility to assure that building, construction, modifications and alterations in the Port Area are in compliance with state law and FAA standards governing air navigation safety; Now, therefore,

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. Section 3, subsection (3), titled "Compliance with Other Laws", of Port Ordinance No. 2083, is hereby amended in its entirety to read as follows:

"(3) Compliance with Other Laws.

The applicant must submit evidence that he or she is complying with all local, state and federal laws applicable to the applicant's proposed construction, including:

- (a) all inspection and permits required by the City of Oakland;
- (b) if the proposed construction to be permitted is located in the Oakland Airport Business Park (as defined in Port Ordinance 2832, as amended), (1) a letter from the Federal Aviation Administration (FAA) that the proposed construction does not require notice to the FAA or (2) a Determination of no Hazard from the Air Traffic Division of the Pacific Region Office of the FAA, stating that the proposed construction has been determined not to be a hazard to air navigation and this determination has become final;
- (c) if the proposed construction to be permitted is located in the Port Area, but not in the Oakland Airport Business Park, (1) a statement signed by the applicant and accepted by the Director of Aviation of the Port that the proposed construction does not require notice to the FAA or (2) a Determination of no Hazard from the Air Traffic Division of the Pacific Region Office of the FAA, stating that the proposed construction has been determined not to be a hazard to air navigation and this determination has become final; and
- (d) if the FAA has issued a Determination of Hazard stating that the proposed construction will constitute a hazard to safe and efficient use of air space, (1) a permit from the California Department of Transportation in accordance with California Public Utilities Code, Section 21659 and (2) written agreement from the applicant that he or she shall comply with conditions determined by all or any of the FAA, the California Department of Transportation and the Port to be necessary to mitigate any potential hazard or obstruction to air navigation, which conditions shall be incorporated as conditions of the permit."

Section 2. The Board hereby finds and determines that this action amending Port Ordinance 2083 has been determined to be

categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to CEQA Guidelines, Section 15061(b)(3) and 15321.

Section 3. The Board hereby finds and determines that: it has considered all reasonable information, including information put forth at the related public hearing and the Board has considered and that the amendment of Section 3 of Ordinance 2083, as amended, is necessary for the orderly, comprehensive and adequate development and improvement of the Port Area.

Section 4. This ordinance shall take effect immediately upon its final adoption by the Board.

In Board of Port Commissioners, Oakland, California, October 17, 2006. Passed to print for one day by the following vote: Ayes: Commissioners Ayers-Johnson, Katzoff, Kiang, Kramer, Protopappas, Scates and President Batarse - 7. Noes: None. Absent: None.

John T. Betterton
Secretary of the Board

Adopted at a **regular** meeting held **November 7, 2006**

By the following vote:
Commissioners Ayers-Johnson, Katzoff, Kiang, Kramer,
Protopappas, Scates and President Batarse - 7

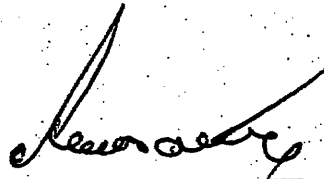
Ayes:

None

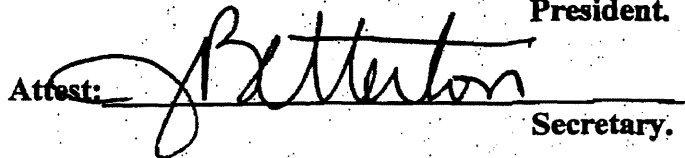
Noes:

None

Absent:



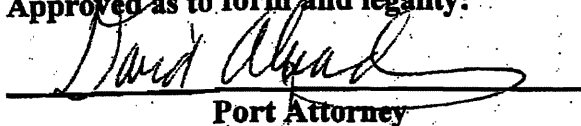
President.



Attest: _____

Secretary.

Approved as to form and legality:



Port Attorney