



**CEQA and COASTAL DETERMINATIONS
and
NOTICE OF APPROVAL**

Project: Amendment of San Diego Unified Port District Code Article 8, Section 8.07 – Regulation of Motorized Mobility Devices and Pedicabs on District Tidelands
Location: Port Tidelands
Parcel No.: Various
Project No.: 2023-051
Applicant: Department of Guest Experiences, San Diego Unified Port District, 3165 Pacific Hwy, San Diego, CA 92101
Date Approved: November 14, 2023

PROJECT DESCRIPTION

The proposed project would involve amending the San Diego Unified Port District Code (Port Code) Article 8, Section 8.07 – Regulation of Motorized Mobility Devices (MMDs) and Pedicabs on District Tidelands, by the San Diego Unified Port District (District) that would take effect on District Tidelands in the cities of San Diego, National City, Coronado, Chula Vista, and Imperial Beach, California.

The proliferation of electric bicycles, electric scooters, electric skateboards, motorized pedicabs and other MMDs has resulted in these devices being readily available for public and private use within the District’s member cities and on Tidelands. Due to the popularity of MMDs and potential conflicts with high density pedestrian areas on Tidelands, MMDs can create significant public safety hazards when used in areas with pedestrian activity.

The purpose of this amendment would be to preserve the safety of pedestrians on Tidelands by prohibiting the use of MMDs and motorized pedicabs on all pedestrian and off-street areas, including, but not limited to, sidewalks, promenades, multi-use pathways, nature trails, plazas, parking garages, parks, and piers. More so, the amendment aims to improve guest experiences by prohibiting the amplification of sound/music and requiring that all pedicab operators post fares on the outside and inside of all pedicabs.

This amendment would regulate MMDs and motorized pedicabs so that they may only operate on streets and designated bike lanes, where available. The following exceptions would be made:

- Motorized devices defined by the Americans with Disabilities Act (ADA), which are utilized by those with mobility disabilities.
- Motorized devices and vehicles used by Police, Fire Department, and other emergency responders in emergencies and during patrols or enforcement.
- Motorized devices and vehicles utilized by District staff and contractors, tenants, or their contractors for use in security and maintenance of District and tenant properties.
- Segway tour operators, which must have member City Permits.

In addition, the amended Port Code Section 8.07 will require Pedicab Operators, Shared Mobility Device (SMD) Operators, and Segway Tour Operators to have a current Permit or Contract in place with the adjacent member City to operate on Tidelands. All regulations by the adjacent City’s Permit or Contract must be followed, and the District will require the Operators/Companies to provide insurance to the District to operate on Tidelands.

More so, the amended Port Code Section 8.07 would consist of the implementation of a Pedicab Operating Program for both motorized and Pedal-Only Pedicabs inclusive of Operating Agreements that are intended to promote responsible behavior of both Pedicab Companies and contracted Pedicab Operators. The Operating Agreements will be renewable on an annual basis assuming a behavioral code of conduct is met. An annual per pedicab fee will be established to recover some or all of the District’s expenses to operate the Pedicab Operating Program. Pedal-Only Pedicabs will be able to operate on designated multi-use pathway routes under an Operating Agreement with the District. All

pedicab operators (motorized and Pedal-Only) will be held to specific restrictions for operations including no amplification of sound/music while operating on Tidelands.

Signage would be installed or modified throughout Tidelands along sidewalks, promenades, and other pedestrian walkways to inform the public of the new regulations for MMDs. Pedicab Parking Zones will also be designated for Pedicabs, both motorized and pedal-only, to stage for loading and unloading of passengers in parking lots and along streets and bike lanes. Some of these Pedicab Parking Zones will be shared based on location, and some on the Pedal-Only Pedicab routes will be solely for their use.

The following categorical determinations are based on the project submittal and all project information known to the District as of the date of this determination.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

CATEGORICAL DETERMINATION

Categorical Exemptions: CEQA Guidelines Section 15301 (Class 1)/District Guidelines for Compliance with the CEQA Section 3.a: Existing Facilities and CEQA Guidelines Section 15311 (Class 11)/District Guidelines for Compliance with the CEQA Section 3.i: Accessory Structures

3.a. Existing Facilities: Includes operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

- (4) New and renewed short-term tenancy agreements which do not result in change in the existing use. This exemption does not apply to any new development associated with the activities of the tenant. This exception is also inapplicable if the cumulative impact of continuing the existing use or conditions in the same place, over time, is significant.
- (8) Existing highways, streets, sidewalks, bicycle and pedestrian trails, and similar facilities, except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or an historic building.
- (11) Existing on and off-premise signs.

AND/OR

3.i. Accessory Structures: Includes construction, or placement of minor structures accessory to (appurtenant to) existing facilities, including:

- (3) On-premise signs.

The proposed project is determined to be Categorically Exempt pursuant to the CEQA Guidelines and the Sections of the District's *Guidelines for Compliance with CEQA* as identified above. These are appropriate for the proposed project because the proposed Port Code amendment is to preserve the safety of pedestrians on Tidelands which would involve no expansion of use beyond that previously existing and would not result in a significant cumulative impact due to the continuation of the existing use. The District has determined none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

Pursuant to CEQA Guidelines Section 15062, a 35-day statute of limitations for this CEQA exemption shall apply from the date a Notice of Exemption is posted with the San Diego County Clerk, or a 180-day statute of limitations for this CEQA exemption shall apply if no Notice of Exemption is filed.

CALIFORNIA COASTAL ACT

PORT MASTER PLAN CONSISTENCY

Applies to all Planning Districts.

Land Use Designations: Streets; Park/Plaza; and Promenade

The proposed project conforms to the certified Port Master Plan because it would involve the amendment

of Port Code Article 8, Section 8.07 – Regulation of Motorized Mobility Devices which is consistent with the existing certified land use designations. The proposed project would not change the use of the site nor would it interrupt or expand the existing conforming uses of the site.

CATEGORICAL DETERMINATION

Categorical Exclusions: Section 8.a: Existing Facilities and Section 8.c: New Construction or Conversion of Small Structures

8.a. Existing Facilities: The operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

- (3) Streets, sidewalks, gutters, bicycle and pedestrian paths, and similar facilities.
- (7) New copy on existing on- and off-premise signs.

AND/OR

8.c. New Construction or Conversion of Small Structures: Construction and location of limited numbers of new, small facilities or structures and installation of small, new equipment and facilities, involving negligible or no change of existing use of the property, including but not limited to:

- (3) Accessory structures, including, but not limited to, on-premise signs, small parking lots, fences, walkways, swimming pools, miscellaneous work buildings, temporary trailers, small accessory piers, minor mooring facilities, buoys, floats, pilings, or similar structures; and seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar structures

The proposed project is determined to be Categorically Excluded pursuant to the Section of the District’s *Coastal Development Permit Regulations* as identified above. This is appropriate for the proposed project because the proposed Port Code amendment is to preserve the safety of pedestrians on Tidelands which would involve negligible or no expansion of use beyond that previously existing and would consist of the installation of on-premise signage.

Pursuant to California Coastal Act Section 30717, there is a 10-working-day period to appeal this “Coastal Act Categorical Determination of Exclusion” to the California Coastal Commission.

CALIFORNIA PUBLIC TRUST DOCTRINE

The proposed project complies with Section 87.(a)(5) of the Port Act, which allows for the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

RANDA CONIGLIO
Acting President/CEO

Determination by:
Lillian Mattes
Assistant Planner
Development Services

Signature: Lillian Mattes
Date: 11/15/2023

Assistant/Deputy General Counsel

Signature: Shiraz D. Tangri
Date: 11/15/2023