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SAN DIEGO UNIFIED PORT DISTRICT

ORDINANCE xxxx

**ORDINANCE AMENDING SAN DIEGO UNIFIED
PORT DISTRICT (SDUPD) CODE ARTICLE 8,
SECTION 8.07 – REGULATION OF MOTORIZED
MOBILITY DEVICES AND PEDICABS ON
DISTRICT TIDELANDS**

WHEREAS, the San Diego Unified Port District (District) is a public corporation created by the Legislature in 1962 pursuant to Harbors and Navigation Code Appendix I (Port Act); and

WHEREAS, Section 21 of the Port Act authorizes the Board of Port Commissioners (BPC) to pass all necessary ordinances and resolutions for the regulation of the District; and

WHEREAS, Section 56 of the Port Act requires the BPC to make local regulations pertaining to the use of all public services in the District, operated in connection with or for the promotion and accommodation of commerce, navigation, fisheries, and recreation on District tidelands; and

WHEREAS, Staff recommends amending this Section of the San Diego Unified Port District (SDUPD) Code Section 8.07 – Regulation of Motorized Mobility Devices and Pedicabs on District Tidelands, to protect the safety of pedestrians and other individuals on District tidelands.

NOW, THEREFORE, the Board of Port Commissioners (BPC) of the San Diego Unified Port District, does ordain as follows:

Section 1.

That Section 8.07 to Article 8 of the San Diego Unified Port District Code is hereby amended to read as follows:

**SECTION NO. 8.07 – REGULATION OF MOTORIZED MOBILITY DEVICES AND
PEDICABS ON DISTRICT TIDELANDS**

(a) Purpose

The proliferation of motorized bicycles, motorized scooters, motorized skateboards, and other non-traditional

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motorized mobility devices has resulted in these devices being readily available within the District's jurisdiction. Motorized Mobility Devices can create public safety hazards when used in areas with pedestrian activity. The use of Pedicabs in pedestrian areas can also create public safety hazards. The purpose of this Section of the San Diego Unified Port District (SDUPD) Code is to protect the safety of pedestrians and other individuals on District tidelands by prohibiting the use of Motorized Mobility Devices and Motorized Pedicabs on pedestrian areas, including Sidewalks, Promenades, Multi-use Pathways, Nature Trails, Plazas, Public Parking Garages, Piers, and Parks, and to enact other regulations related to Motorized Mobility Devices and Pedicabs intended to protect public safety within the District's jurisdiction.

(b) Definitions

1. "Electric bicycle" or "e-bike" – As defined by California Vehicle Code Section 312.5, as may be amended from time to time.
2. "Electrically Motorized Board" - As defined by California Vehicle Code Section 313.5, as may be amended from time to time.
3. "Electric Personal Assistive Mobility Device" or "EPAMD" – As defined by California Vehicle Code Section 313, as may be amended from time to time.

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4. “EPAMD Rental Business” – A Person who manages, owns, or operates a business that offers for rent one or more EPAMDs for guided tours.
5. “Executive Director” – Executive Director of the San Diego Unified Port District.
6. “Geofencing” – The creation of a virtual geographic boundary, defined by Global Positioning System (“GPS”), radio-frequency identification (“RFID”), or other technology, that enables a Shared Mobility Device Provider to regulate speed, issue notifications, and take other actions, when a Shared Mobility Device in its fleet enters or leaves an area.
7. “Member City” – The five (5) member cities of the District, which are: the cities of San Diego, Chula Vista, National City, Imperial Beach, and Coronado.
8. “Motorized Bicycle” – As defined by California Vehicle Code Section 406, as may be amended from time to time.
9. “Motorized Mobility Device” or “MMD” – A mobility device, such as an EPAMD, Electric Bicycle, Electrically Motorized Board, Motorized Scooter, Motorized Bicycle, skateboard, hoverboard, or similar device, that is motorized for the purpose of locomotion.

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10. "Motorized Pedicab" – A Pedicab that is motorized for the purpose of locomotion, which motor provides assistance when the operator is pedaling or that can exclusively propel the Pedicab.
11. "Motorized Scooter" – As defined by California Vehicle Code Section 407.5, as may be amended from time to time.
12. "Multi-Use Pathway" – A pathway intended or suitable for more than one mode of travel (e.g., accommodating both pedestrian and bicycle traffic), such as walking, jogging, cycling, and wheelchair use.
13. "Nature Trail" – An unpaved pathway.
14. "Other Power-Driven Mobility Device" or "OPDMD" – As defined by the Americans with Disabilities Act and related regulations, as may be amended from time to time.
15. "Park" – An open and publicly accessible space intended primarily for recreation.
16. "Pedal-Only Pedicab" – A Pedicab that has no motor, electric device, battery, or other form of power and can only be pedaled by human power. Turning off or disabling the motor does not meet the requirement for a Pedal-Only Pedicab.
17. "Pedicab" – As defined by California Vehicle Code Section 467.5, as may be amended from time to time.

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18. "Pedicab Placard/Decal" – A nontransferable authorization, affixed to the Pedicab by the District.
19. "Pedicab Operator" – Any person who operates a Pedicab within the District, including but not limited to (a) owners; (b) employees; and (c) individual contractors.
20. "Pedicab Operating Agreement" – An agreement between the Pedicab Operator and the District, that authorizes the use of a Pedicab on District Property.
21. "Pedicab Parking Zone" – A parking area designated for the specific purpose of Pedicabs waiting for, dropping off, or picking up passengers.
22. "Pedicab Routes" – Defined routes designated by the District where Pedicabs can operate on District property, subject to conformance with all the applicable rules and regulations. Routes include where Pedal-Only Pedicabs can operate off-street if the sidewalk width and/or pedestrian traffic allows. Routes include where both Motorized Pedicabs and Pedal-Only Pedicabs can operate on streets and parking lots within District property.
23. "Pier" – A fixed structure that extends over the water and is used as a landing place for vessels. A pier can also be used for other

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non-landing activities such as, but not limited to, recreational and commercial uses.

24. "Plaza" – An open space designed for public use defined by surrounding buildings or streets.
25. "Promenade" – A public pathway adjacent to the water.
26. "Seatbelt" – A safety strap or harness designed to hold a person securely in a seat.
27. "Public Parking Garage" – A structure or any part thereof, principally used for the parking of motor vehicles and is available to the public and may be above or below finished grade.
28. "Shared Mobility Device" or "SMD" – An MMD for shared use or transportation in exchange for financial compensation via the use of a digital application or other electronic or digital platform.
29. "Shared Mobility Device Provider" or "SMD Provider" – A person that, in exchange for financial compensation, offers, makes available, or otherwise provides an SMD to another person via the use of a digital application or other electronic or digital platform.
30. "Sidewalk" – A dedicated pathway providing pedestrian connectivity adjacent and parallel to a roadway.
31. "Stage" – To park or otherwise place an MMD or Pedicab in a location to offer for public use or rides.

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32. "Wheelchair" – As defined by the Americans with Disabilities Act and related regulations, as may be amended from time to time.

(c) Regulations and Enforcement of Pedicabs and Motorized Mobility Devices

1. No person shall ride or otherwise operate or cause to be operated a Motorized Pedicab or an MMD in or on any Sidewalk, Promenade, Multi-Use Pathway, Nature Trail, Plaza, Public Parking Garage, Pier, or Park.

a. Exception: The prohibition in SDUPD Code Section 8.07 (c)(1) do not apply to the use of Wheelchairs, OPDMDs, or other Mobility Devices as defined by the Americans with Disabilities Act (ADA) by individuals with mobility disabilities.

b. Exception: The prohibition in SDUPD Code Section 8.07 (c)(1) do not apply to the use of an EPAMD as part of an organized guided tour by an EPAMD Rental Business that has an active permit to operate in the District's jurisdiction issued by a Member City.

c. Additional exceptions may be approved by the Executive Director or the Executive Director's

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designee from time to time, within the Executive Director's sole discretion.

2. No person shall Stage or abandon or cause to be Staged or abandoned a Pedicab or an MMD in or on a Sidewalk, Promenade, Multi-Use Pathway, Nature Trail, Plaza, Public Parking Garage, Pier, or Park, or in any area in such a way as to restrict the free movement of vehicles or pedestrians or otherwise create a safety hazard.
3. No person shall operate or cause to be operated a Pedicab in an area outside of the District authorized Pedicab Routes.
4. No person shall operate or cause to be operated a Pedicab or an MMD in any manner that impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law.
5. All persons operating a Pedicab or an MMD shall yield to pedestrians.
6. All persons operating a Pedicab or an MMD shall drive safely and at a speed that will not endanger pedestrians.
7. No person shall operate a Pedicab or an MMD at a speed that is unsafe based on current conditions.

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8. No person shall operate or cause to be operated a Pedicab or an MMD without equipped brakes that will enable a braked wheel to skid on dry, level, and clean pavement.
9. All Pedicabs shall have the following dedicated and properly working safety equipment: seatbelts, hydraulic or mechanical disc brakes, headlights and tail-lights, turn signals (visible from the front and rear), and spoke reflectors placed on each wheel.
10. No person shall operate a Pedicab or an MMD while intoxicated by any substance or operate a Pedicab or an MMD while ingesting any alcoholic beverage or intoxicating substance.
11. No person shall operate or cause to be operated a Pedicab or an MMD recklessly or in willful or wanton disregard for the safety or property of others.
12. No person under the age of eighteen (18) years old shall operate a Pedicab.
13. No person under the age of eighteen (18) years old shall operate an MMD without a helmet.
14. No person under the age of sixteen (16) years old shall operate an MMD.
15. No person shall operate an MMD with passengers unless the MMD is designed by its manufacturer for use by multiple people

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simultaneously, and all passengers shall only ride in portions of the MMD designed for use by passengers.

16. Pedicabs shall only be operated by one individual, and the total number of passengers shall be limited by the total number of seatbelts provided in the Pedicab passenger seating area.
17. No person shall operate a Pedicab or an MMD while carrying any package, bag, or bundle that prevents the use of at least one hand to steer.
18. No person shall operate or cause to be operated a Pedicab without displaying a valid Pedicab Placard/Decal affixed to that Pedicab by the District.
19. No person shall use any form of sound amplification while operating a Pedicab.
20. No person shall operate or cause to be operated a Pedicab without posting a clearly visible and unobstructed fare schedule on the interior and exterior of the Pedicab that meets the size, font, color, and format requirements of the City of San Diego Municipal Code and the District's Pedicab Operating Agreement requirements. The fare schedule shall list all applicable fares, including minimum charges, per-person charges, by-distance fares, tour fares, and any other fare or fee charged in connection with the use of the Pedicab by customers. Each fare or fee must

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be listed on a separate line.

21. No person shall charge a Pedicab passenger(s) a fare greater than displayed on the posted fare schedule.
22. No person shall operate a Pedicab with one or more passengers unless the full fare for the trip has been agreed upon by the passenger(s) prior to the trip departure.
23. No person shall solicit or pick up one or more Pedicab passengers outside of a Pedicab Parking Zone.
24. No person shall leave a Pedicab unattended in a Pedicab Parking Zone.
25. No person shall pick up or drop off one or more Pedicab passengers in a location where it is unsafe to do so due to traffic or other conditions.
26. No Pedicab shall park or Stage a Pedicab in a metered or pay station parking space, ADA parking space, or at any red, yellow, or white marked areas that are not otherwise designated for Pedicabs.
27. No person shall operate a Pedicab, SMD, EPAMD, MMD within an area that has been designated by the District as temporarily restricted due to a special event, construction, emergency response, or other activity and where signs have been posted to

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that effect.

28. Beginning February 15, 2024, no person shall operate or cause to be operated a Pedicab without a valid Pedicab Operating Agreement issued by the District.
29. Beginning February 15, 2024, no person shall operate or cause to be operated a Pedicab in violation of the applicable Pedicab Operating Agreement.
30. Pedicab Operators who employ or contract with other persons to operate Pedicabs within the District's jurisdiction must supervise their employees and/or contractors to ensure compliance with the District's Code, the applicable Pedicab Operating Agreement, and other applicable laws, rules, regulations, and other requirements.
31. City of San Diego Operating Permit Required for Pedicabs: It shall be unlawful for any person to operate a Pedicab within those portions of the District that share jurisdictional boundaries with the City of San Diego, without first having obtained a Pedicab Operating Permit from the City of San Diego, pursuant to the San Diego Municipal Code, as may be amended from time to time. All persons with a Pedicab Operating Permit shall operate Pedicabs in strict conformance to, and in compliance with, their respective City of San Diego Pedicab Operating

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Permit, as may be updated and revised from time to time. This conformance and compliance shall include all requirements for passenger safety, speed, lighting, and noise restrictions.

32. City of San Diego Operating Contract required for SMD Providers (SMD Operating Contract): Any SMD Provider operating within those portions of the District that share jurisdictional boundaries with the City of San Diego shall obtain and strictly comply with the SMD Operating Contract, pursuant to the San Diego Municipal Code, as may be amended from time to time.
33. SMD Providers must establish Geofencing of SMDs to prohibit riding, operating, parking, staging, or abandoning of SMDs, in any manner that violates this Section.
34. City of San Diego Operating Permit required for EPAMD Tour Providers: It shall be unlawful for any person to provide tours within those portions of the District that share jurisdictional boundaries with the City of San Diego, without first having obtained an EPAMD Rental Business Permit from the City of San Diego, pursuant to San Diego Municipal Code, as may be amended from time to time.
35. City of Chula Vista Permit required for SMD Providers: Any SMD Provider operating within those portions of the District that share jurisdictional boundaries with the City of Chula Vista shall obtain

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and strictly comply with an SMD permit issued by the City of Chula Vista, pursuant to Chula Vista Municipal Code, as may be amended from time to time.

36. Insurance Required:

- a. It shall be unlawful for any person to operate a Pedicab within the District unless at the time of such operation that person has a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(d), below.
- b. It shall be unlawful for any SMD Provider to Stage or cause to be Staged an SMD within the District, operate an SMD, or allow another person to operate an SMD within the District unless at the time of such staging and operation, the SMD Provider has in effect a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(e), below.
- c. It shall be unlawful for any EPAMD Rental Business to operate within the District unless at the time of such operation the EPAMD Rental Business has in effect a valid policy of Commercial General Liability Insurance, as more fully described in subsection 36(f), below.

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- d. For any Pedicab Operator, said policy of insurance shall cover the District and its operations in the amount of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the Pedicab Operator.
- e. For any SMD Provider, said policy of insurance shall cover the District and operations in the amount of not less than Five Million Dollars (\$5,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the operator of an SMD Provider.
- f. For any EPAMD Rental Business, said policy of insurance shall cover the District and operations in the amount of not less than One Million Five Hundred Thousand Dollars (\$1,500,00.00) combined single limit per occurrence for bodily

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injury, personal injury, and property damage suffered or alleged to be suffered by any person or persons whatsoever resulting directly or indirectly from any act or activities of the EPAMD Rental Business.

- g. Certificates of insurance in a form acceptable to the District evidencing the existence of the necessary insurance policies, and original endorsements naming the District as an additional insured, shall be provided to the District and kept on file with the District during the entire time the Pedicab Operator or SMD Provider or EPAMD Rental Business Permit or contract with the City of San Diego or with the District's other Member Cities, is in effect.

- 37. Compliance with All Laws: In addition to all requirements set forth in this SDUPD Code Section 8.07, all persons shall comply with all applicable local, state, and federal laws, rules, regulations, and other requirements pertaining to the operation of MMDs, SMDs, and Pedicabs, including but not limited to those of the SDUPD Code, and Member City, and the California Vehicle Code. In the event of conflict between the laws, rules, and regulations and other requirements of the District and any

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Member City, the District's laws, rules, regulations, and all other requirements shall apply.

(d) Pedicab Impound

1. Pedicab Operators are subject to all applicable impound provisions of the California Vehicle Code. Pedicab Operators are subject to the same rights and responsibilities as a driver of a motor vehicle as they relate to impoundment.
2. Any peace officer, police officer, or parking enforcement officer engaged in traffic or parking enforcement may remove or impound a Pedicab under any of the following circumstances:
 - a. When the Pedicab Operator is issued a citation for a violation of District Code Sections 8.07(c)(15), (25), (26), or (28);
 - b. When the Pedicab Operator is arrested and taken into custody;
 - c. When the Pedicab Operator is physically incapacitated to the extent the Pedicab Operator is unable to safely operate the Pedicab; or
 - d. When a Pedicab is parked or left standing upon a street or sidewalk so as to obstruct the normal movement of vehicles or pedestrians or in a condition that creates a hazard.

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3. An owner of a Pedicab removed pursuant to this Section shall be provided an opportunity for a post-storage hearing to determine the validity of the storage, in accordance with California Vehicle Code Section 22852. The impounding agency shall have the burden of establishing the validity of the removal.

(e) Penalties

Violations of this Section 8.07 may be punished in accordance with Article 0, Section 0.11 (General Penalty) of this SDUPD Code. The requirements and prohibitions in this Section 8.07 relating to Pedicabs shall apply equally to all Pedicab Operators. Any violation may be enforced against the Pedicab's owner and/or the Pedicab Operator. One or more violations of this SDUPD Code Section may result in a suspension or revocation of the applicable Pedicab Operating Agreement.

(f) Administrative Regulations

The Executive Director or the Executive Director's designee may promulgate and implement administrative regulations pertaining to the use and administration of MMDs, SMDs, and Pedicabs, including District issued Pedicab Placards/Decals and fare schedule requirements, Pedicab Routes and other routes, and the installation of signs and markings pertaining to the regulations in this Section.

(g) Exception for Emergency Vehicles and Public Agency Vehicles

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The provisions in this Section 8.07 do not apply to police, fire department, or any other emergency response or enforcement personnel while acting in response to an emergency or during routine patrols or enforcement, or those vehicles registered to any California public agency displaying a valid California DMV issued exempt plate, or any vehicle owned and operated by a public utility company while engaged in official repair or responsive activities.

(h) Invalidity

If any section, subsection, sentence, clause, phrase, or portion of this Section 8.07 is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

(Enacted – August 21, 2001 – Ordinance No. 2145)

(Amended – November 14, 2023 – Ordinance No.

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Section 3. This Ordinance shall take effect on the 31st day from its passage by the Board of Port Commissioners.

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APPROVED AS TO FORM AND LEGALITY:
GENERAL COUNSEL

By: Assistant/Deputy

PASSED AND ADOPTED by the Board of Port Commissioners of the San Diego Unified Port District, this 14th day of November 2023, by the following vote: