

SEC. 8.07 - REGULATION OF PEDICABS

(a) Definitions

1. Bicycle means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears, and which has wheels at least Sixteen (16) inches in diameter and a frame size of at least Thirteen (13) inches.
2. Decal means Pedicab Permit Decal purchased from the District for each Pedicab operated by an Operator.
3. District means the San Diego Unified Port District.
4. District Clerk means Clerk of the District.
5. Executive Director means Executive Director of the San Diego Unified Port District.
6. Identification Badge means a badge that includes a color passport-sized photo and issued by the City of San Diego pursuant to San Diego Municipal Code Section 83.0110.
7. Operate means to conduct business with a Pedicab within the District.
8. Operator means any individual who operates a Pedicab within the District, including but not limited to (a) owners; (b) employees; and, (c) individual contractors.

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9. Pedicab means:

a) A bicycle that has Three (3) or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by an individual, and which is used for transporting passengers for hire; or

b) A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting passengers on seats attached to the trailer, sidecar, or similar device, that is operated by an individual, and that is used for transporting passengers for hire.

10. Pedicab Stand means a stand erected to allow a specified number of Pedicabs at any one time to stop and respond to requests for service.

(b) Operating Requirements

1. Decal Required:

a) It is unlawful for any Pedicab to operate within the District without a Decal affixed to it and issued by the District pursuant to a Pedicab Permit issued by the District.

b) The District shall deny issuance of a Decal if the Executive Director or his or her designee determines that the Pedicab does not meet the requirements of this division

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and/or the California Vehicle Code provisions applicable to Bicycles.

2. District Pedicab Permit Required: It shall be unlawful for any individual to operate a Pedicab within the District without first having obtained a Pedicab Permit from the District.

3. City of San Diego Operating Permit Required: It shall be unlawful for any individual to operate a Pedicab within the District without first having obtained a Pedicab Operating Permit from the City of San Diego, pursuant to San Diego Municipal Code Sections 83.0104 through 83.0107.

4. Identification Badge Required:

a) While the Pedicab is in operation the Operator shall wear an identification badge at all times, in a manner clearly visible to the public, issued by the City of San Diego pursuant to San Diego Municipal Code Section 83.0110.

b) It is unlawful for an Operator to fail to wear an identification badge, in a manner clearly visible to the public, while operating a Pedicab.

5. Insurance Required:

a) It shall be unlawful for any individual to operate a Pedicab within the District unless at the time of such

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operation the Operator has in effect a valid policy of Commercial General Liability Insurance as more fully described in subsection b), below.

b) Said policy of insurance shall cover the District and operations in the amount of not less than Two Million Dollars (\$2,000,000.00) 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 any Pedicab, pursuant to a Pedicab Permit issued by the District.

c) 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 kept on file with the District during the entire time the Pedicab Permit is in effect.

6. **Driver's License Required:** It is unlawful for any individual without a motor vehicle driver's license valid in California and in his or her immediate possession to operate any Pedicab within the District.

7. **Minimum Age for Operator:** It is unlawful for any individual under the age of Eighteen (18) to operate a Pedicab within the District.

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8. Compliance with All Laws: Operators are subject to all applicable laws, rules and regulations of the San Diego Unified Port District Code, the San Diego Municipal Code, and the California Vehicle Code pertaining to the operation of Bicycles upon streets, except those provisions that by their very nature can have no application.

9. Stopping Prohibited: It shall be unlawful for any Operator, during operation of the Pedicab, to stop anywhere within the District for the purpose of soliciting a request for service, except at a designated Pedicab Stand.

(c) Aggressive Solicitation

1. Definitions:

- a) Aggressively means behaving in a hostile or intimidating manner.
- b) Coerce means to force or bring about by force or threat.
- c) Harass means to irritate or torment persistently.
- d) Hound means to pursue relentlessly and tenaciously.
- e) Intentionally Block means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or

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driver of a vehicle to take evasive action to avoid physical contact.

f) Intimidate means to frighten into submission or obedience.

g) Solicitor, as used in this Section, means an Operator who asks for money or to provide services for costs.

h) Threaten means to express an intention to inflict evil, injury or damage.

2. Acts Prohibited:

a) It is unlawful for any Operator while operating a Pedicab within the District to aggressively coerce, threaten, hound, harass, or intimidate another person for the purpose of soliciting money or services.

b) For purposes of this Section, an Operator "aggressively coerces, threatens, hounds, harasses or intimidates another person" when: i) the Operator's conduct would cause a reasonable person in the position of the solicitee to fear for his or her safety; or ii) the Operator intentionally blocks the path of the solicitee; or iii) the Operator persists in following the solicitee closely, and continues to demand money

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or solicit Pedicab services after the solicitee has rejected the Operator's solicitation by words or conduct.

3. Reasonable Fear for Safety:

For purposes of this Section the following facts, among others, are relevant in deciding whether a reasonable person would have cause to fear for his or her safety:

- a) the solicitor's making physical contact with the solicitee; or
- b) the proximity of the solicitor to the solicitee; or
- c) the duration of the solicitation; or
- d) the solicitor's making threatening gestures or other threatening conduct, including closely following the solicitee.

4. Demand for Services:

This Section is not intended to proscribe any demand for payment for services rendered or goods delivered.

5. Free Speech:

This Section is not intended to restrict the exercise of protected free speech.

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(d) Appeal Procedure for District Refusal to Issue Pedicab Permit/Decal

1. Should District refuse to issue a Pedicab Permit or Decal to any Operator, and Operator believes he/she/it has satisfied all the requirements necessary for issuance of the Pedicab Permit or Decal as set forth in the District's Pedicab Permit, he/she/it may appeal such refusal in writing to the Executive Director or his or her designee within Ten (10) calendar days of receipt of such refusal by Applicant.

2. The Executive Director or his or her designee shall have Ten (10) calendar days to respond in writing to Operator detailing the reasons for the decision. The decision of the Executive Director or his or her designee is final.

(e) Suspension or Revocation of Pedicab Permit/Decal

1. The Executive Director or his or her designee shall have the right to suspend or revoke a Pedicab Permit or Decal for failure to comply with any provision of this Section. Prior to the suspension or revocation of any Pedicab Permit or Decal, Operator shall be given Ten (10) calendar days written notice of the proposed suspension or revocation ("Notice of Intent to Suspend/Revoke Pedicab Permit/Decal") which shall include the reasons therefor.

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2. Any suspension or revocation imposed shall become effective on the day after the Ten (10) day appeal period has expired if no timely appeal is filed.

3. If Operator files a timely appeal, any suspension or revocation of the Pedicab Permit or Decal shall be stayed pending final determination of the appeal.

(f) Appeal Procedure for Pedicab Permit/Decal Suspension or Revocation

1. The Notice of Intent to Suspend or Revoke Pedicab Permit/Decal shall notify Operator that he/she/it may file a written appeal with the Executive Director which shall be delivered or mailed to the District Clerk. Operator shall have Ten (10) calendar days from the date of receipt of the Notice of Intent to file the appeal.

2. The Executive Director or his or her designee shall assign a Hearing Officer to hear the appeal. The matter shall be heard no later than Fifteen (15) calendar days from the date of the filing of the appeal unless such time is extended by mutual agreement of the parties. The Hearing Officer shall notify the parties in writing of the time, date and place of the hearing. The notice of hearing may be sent to

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Appellant by registered or certified mail, or by personal delivery.

3. The hearing shall be an informal administrative proceeding with relaxed rules of evidence. The parties may be represented by legal counsel and witnesses may be produced and examined.

4. The decision of the Hearing Officer shall be final. The decision of the Hearing Officer specifying his or her findings shall be furnished to the parties within Fifteen (15) calendar days after the hearing is concluded. For purposes of administrative mandamus, the decision shall be final when it is filed with the District Clerk.

5. The Hearing Officer's decision shall be subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(g) Penalties

In addition to any of the administrative penalties set forth in this Section, violations of this Section may also be punished in accordance with Article 0, Section 0.11 of this Code.

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(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 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 2145)