

Offered by Councilor Salvatore LaMattina



CITY OF BOSTON

IN THE YEAR TWO THOUSAND AND ELEVEN

AN ORDINANCE REGULATING THE USE OF PERSONAL ASSISTIVE MOBILITY DEVICES IN THE CITY OF BOSTON

- WHEREAS*, A relatively new type of vehicle appearing on the streets and public ways of the City of Boston, and commonly known as the "Segway," is a two-wheeled, self-balancing electric personal assistive mobility device used for personal transportation; and,
- WHEREAS*, In 2010, the Boston City Council's Committee on City and Neighborhood Services held a hearing regarding the City's ability to accommodate the use of such mobility devices; and,
- WHEREAS*, The unregulated use of personal assistive mobility devices on the City's sidewalks, shared use paths, streets and roads, is unsafe in part due to the heavy use of such public areas by pedestrians, bicyclists, inline skaters, pet owners who are walking dogs, and similar public use of such areas; and,
- WHEREAS*, The potential speed of personal assistive mobility devices, together with their virtually silent use and operation, coupled with the unique operational functions to inexperienced users, make their unregulated use incompatible, from a safety perspective, with motor vehicles on the City's streets and roads and incompatible with the congestion and types of users and uses found on the City's shared-use paths, bicycle path and sidewalks; and
- WHEREAS*, The use of personal assistive mobility devices has grown from private property security uses to the business and general population markets for daily use in public spaces; and,
- WHEREAS*, Specifically, private tour companies have become increasingly more reliant on personal assistive mobility device guided tours throughout the City of Boston and have continued to disrupt parts of the North End and Beacon Hill neighborhoods with respect to pedestrian traffic, including the Boston Common, Rose Kennedy Greenway and Faneuil Hall; and,
- WHEREAS*, The City Council has the obligation to analyze potential safety problems in a conservative manner to protect the health, safety and welfare of the citizens of the City of Boston; and,
- WHEREAS*, The City Council determines that the limited and regulated use of personal assistive mobility devices is a reasonable accommodation to interested parties and the general public in an effort to establish a culture of safety for all pedestrians, motorists and personal assistive mobility devices users on roadways, sidewalks and footpaths in all neighborhoods in the City of Boston; *NOW THEREFORE*

Be it ordained by the City Council of Boston, as follows that the City of Boston Code be amended by adding the following ordinance:

Section 1. CBC Chapter XVI is hereby amended by inserting after section 16-12.38 the following new section:--

16-12.38A Electric Personal Assistive Mobility Devices

16-12.38A.1. *Definition of Electric Personal Assistive Mobility Device or EPAMD.* An electrical personal assistive mobility device ("EPAMD") shall mean a self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system having a maximum speed on a paved level surface of less than twenty miles per hour. For purposes of this section 16-12.38A, EPAMDs shall include but shall not be limited to the Segway® PT. For purposes of this section 16-12.38A, electric or motorized wheelchairs and powerchairs shall not be considered EPAMDs.

16-12.38A.2. *Prohibition of EPAMDs.* The use of EPAMDs are hereby prohibited, based upon the interest of safety, on all public property in the City of Boston except as specifically authorized by the provisions of this chapter. Public property includes but is not limited to all public ways, sidewalks, parks, plazas, bicycle paths and shared use paths owned by and/or under the care, custody and control of the City of Boston.

16-12.38A.3. *Definition of Tour Operator.* A tour operator is any person, corporation, or other entity engaged in the business of providing tours to customers using EPAMDs and/or engaged in the business of renting EPAMDs to customers in the City of Boston.

16-12.38A.4 *Limited Use of EPAMDs for Tour Operations.* In the City of Boston the use of EPAMDs in tour operations shall be permitted subject to licensure by the police commissioner for the City of Boston who shall have exclusive authority to license and promulgate regulations for the use of EPAMDs in such tour operations. Subject to such licensure and regulations, tour operators, their employees, customers and users may operate EPAMDs only on public streets in the City of Boston on routes approved by the Boston Transportation Department with a license issued by the Boston Police Department's Hackney Division to use and/or operate EPAMDs under the minimum conditions and requirements as set forth in this section. The police commissioner may establish additional conditions and requirements by rule or regulation consistent with his authority as police commissioner of the City of Boston. Such licenses approved by the police commissioner shall be granted for a term not exceeding one year but whenever granted they shall expire annually on the first day of March; such licenses may be renewed annually by the police commissioner and may at any time be revoked or suspended for cause by said commissioner. The police commissioner shall determine appropriate fees for administering such licenses. Such license is non-transferable and authorizes only the named licensee and/or its customers to use and/or operate EPAMDs in accordance with the provisions of this section. Such license shall be prominently displayed on the front of any EPAMD used and/or operated by a licensee within the City of Boston.

Such minimum conditions and requirements shall be as follows:

(a) The proposed tour route and months, days and hours of operation must be pre-approved in writing by the Boston Transportation Department. Thereafter, there shall be no deviations from the approved tour route without prior written approval from the Boston Transportation Department.

- (b) The tour operator shall provide an approved site for education and instruction on the operation and use of EPAMDs by its employees and customers. For purposes of this section, customers shall include all tour patrons and users, whether or not consideration is paid for such use.
- (c) All tour users or customers must be shown a safety video and provided with "hands on" EPAMD training by an experienced operator in a controlled area prior to such user physically operating an EPAMD on any public property in the City.
- (d) Tour operators shall provide to their customers and/or users of EPAMDs a fact sheet issued by the City of Boston summarizing the provisions of this section 16-12.38A and any applicable regulations authorized herein regulating licensed tour operators and EPAMD users. Tour operators shall ensure that every customer and/or user of an EPAMD on its tour shall acknowledge, sign and date the fact sheet prior to his or her use of an EPAMD. Tour operators shall retain such record of acknowledgement in accordance with the rules or regulations authorized to be promulgated hereunder.
- (e) The maximum number of EPAMD users that can be included in any single tour is 6, and 1 tour leader.
- (f) Tour leaders/operators must be able to communicate with each other through the use of private communication devices (two-way radios, cellular phones or similar devices) and have available the use of rearview mirrors or other mirror device approved by the Boston Police Department.
- (g) No rider under 14 years of age and/or 100 pounds in weight, and/or as limited by the applicant's insurance company requirements, and/or pursuant to the EPAMD manufacturer's specifications, shall be allowed on any tour.
- (h) Tour leaders/operators must be at least 18 years of age and must be experienced in the use and operation of EPAMDs to give tours. Tour leaders or operators shall wear safety reflector vests, or other obviously visible clothing as may be approved by the Boston Police Department.
- (i) No EPAMD shall be used or operated in excess of a maximum speed of 8 miles per hour.
- (j) Tours shall use only the public streets or roads of the City of Boston.
- (k) No tour will be conducted or operated after dusk.
- (l) Tours shall not enter any private property without prior permission from the owner.
- (m) Every EPAMD shall be equipped with a sounding device and all customers or users shall be trained in the use of such sounding device.
- (n) An EPAMD user shall yield the right-of-way to pedestrians and shall give an audible signal with a sounding device before overtaking and passing a pedestrian.
- (o) All users or customers shall wear helmets during training and at all other times during the tour or at any time while on or operating an EPAMD.
- (p) Users or customers shall not be permitted to operate an EPAMD while under the apparent influence of alcohol or drugs, including prescription drugs that impair the user's ability to operate machinery, or in the event that the tour operator or employees have actual knowledge of the fact that such user or customer is

under the influence of alcohol or drugs, including prescription drugs that impair the user's ability to operate machinery.

(q) All of the above requirements and conditions shall be explained and specifically described by the tour operator or employees to each user or customer prior to the use of an EPAMD by such user or customer.

16-12.38A.5. *Limited use of EPAMDs for Disabled Persons for Mobility Purposes.* An EPAMD may be used and operated on public property in the City of Boston, provided such EPAMD is used and/or operated by a person disabled for mobility purposes in accordance with all the requirements established in this section.

(a) Inquiry into use of EPAMDs by persons who are disabled for mobility purposes.

(1) The City of Boston may ask any person using or operating an EPAMD on public property in the City of Boston to provide evidence that the person's use or operation of the EPAMD is required because of his or her mobility disability. The City shall accept one or more of the following as evidence that a person's use or operation of an EPAMD is required because of his or her mobility disability:

(i) A valid disability parking placard or card issued by the Commonwealth of Massachusetts, presented by a person at the time of his or her use or operation of the EPAMD;

(ii) Any other valid proof of disability issued by the Commonwealth of Massachusetts, presented by a person at the time of his or her use or operation of the EPAMD;

(iii) A verbal representation by the person on, using or operating the EPAMD that his or her use or operation of the EPAMD is required because of his or her mobility disability. However, the City of Boston may assess any penalty or take any other action authorized under this section 16-12.38A if such person's verbal representation that his or her use or operation of the EPAMD is required because of his or her mobility disability is contradicted by observable fact, as determined by the City of Boston.

(2) Any person on, using or operating an EPAMD on public property in the City of Boston who is unable to present the required evidence of his or her mobility disability at the time of his or her use or operation of an EPAMD as described above and as determined by the City of Boston, shall be deemed in violation of the provisions of this section.

(b) Groups of EPAMDs. Under no circumstances may any individual permitted to use EPAMDs under the provisions of this subsection 16-12.38A5 travel in a group of more than two on the sidewalks, public ways, parks, or pedestrian ways and areas in the City of Boston. When traveling in a group of two EPAMDs, such individuals shall travel only in single file and shall not travel side-by-side in the City of Boston.

16-12.38A.6 *Use of EPAMDs for Advertising.* Except for the advertisement of and dissemination of information about the tour operation, no person or tour operator shall, for the purpose of advertising goods, wares or merchandise for sale, while on and/or using an EPAMD in any street or on other public property in the City of Boston, carry and display any show card, placard or sign, or distribute to persons for the purpose of advertising goods, wares or merchandise for sale, handbills, cards, circulars or papers.

16-12.38A.7. *Penalties.* Any person violating the provisions of this section 16-12.38A shall be subject to a fine of fifty dollars and no cents (\$50.00) for a first offense and one hundred dollars and no cents (\$100.00) for a second or any subsequent offense. In addition to the fines stated above, any tour operator violating the provisions of this section 16-12.38A shall be subject to a fine of five hundred dollars and no cents (\$500.00) for each offense. Depending on the severity of the offense, as determined by the Boston Police Department, a violation of any of the provisions of this section may also result in suspension or revocation of a tour operator's license to use EPAMDs from the Boston Police Department's Hackney Division.

16-12.38A.8. *Enforcement.* The Boston Transportation Department and the Boston Police Department shall have the authority to enforce this section. The provisions of Massachusetts General Laws c. 40, s. 21D may be used to enforce these sections. The Boston Police Department shall have the authority to impound any EPAMD in violation of these sections.

16-12.38A.9. *Regulatory Authority.* The commissioner of the Boston Transportation Department and the commissioner of the Boston Police Department shall have the authority to promulgate rules and regulations necessary to implement and enforce these sections. Pursuant to St. 1949, c. 222, the commissioner of the Boston Police Department may charge an appropriate fee for such services attendant to the registration and licensure process.

16-12.38A.10 *Severability.* If any provision of these sections is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Section 2. The provisions of these sections shall be effective immediately after passage.

In City Council JUN 15 2011

Passed

Rosaria Salerno City Clerk

Approved JUN 24 2011

Fernando Henrique

Mayor