

#60
9/10/19

(O-2020-35)
COR. COPY

ORDINANCE NUMBER O- **21130** (NEW SERIES)

DATE OF FINAL PASSAGE **SEP 17 2019**

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW DIVISION 4, SECTIONS 83.0401, 83.0402, 83.0403, 83.0404, 83.0405, 83.0406, AND 83.0407 RELATED TO ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE BUSINESSES.

WHEREAS, the City of San Diego's public rights-of-way are designed to accommodate a multimodal transportation system and are heavily utilized by residents and visitors; and

WHEREAS, California Vehicle Code section 21282 permits the City to regulate the time, place, and manner of the operation of electric personal assistive mobility devices (EPAMD) as defined in California Vehicle Code section 313, including limiting, prohibiting entirely, or prohibiting use in specified areas as determined to be appropriate by the City Council (Council); and

WHEREAS, EPAMD riders have suffered serious injuries while on guided tours conducted by EPAMD businesses; and

WHEREAS, the Council desires to enact this ordinance for the purpose of public safety by prescribing minimum standards for the operation of EPAMD businesses through a permitting process; and

WHEREAS, the Council finds that this ordinance is in accordance with the public purposes and provisions of applicable State and local laws and requirements; and

WHEREAS, the proposed regulations of EPAMD businesses may be enforced by provisions in Chapter 1 of the San Diego Municipal Code; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 8, Article 3 of the San Diego Municipal Code is amended by adding Division 4, sections 83.0401, 83.0402, 83.0403, 83.0404, 83.0405, 83.0406, and 83.0407, to read as follows:

Division 4: Electric Personal Assistive Mobility Device Businesses

§83.0401 Purpose and Intent

It is the purpose and intent of this Division to regulate *electric personal assistive mobility device businesses* in the City of San Diego by requiring a *permit* to operate. These regulations are intended to ensure the protection of public health and safety.

§83.0402 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply to this Division:

Electric personal assistive mobility device or *EPAMD* has the same meaning as in *Vehicle Code* section 313.

EPAMD business means a *person* who manages, owns, or operates a business that offers for rent one or more *EPAMDs*.

Permit means an official authorization issued by the City of San Diego to an *EPAMD business* under this Division.

§83.0403 Permit Required

It is unlawful for any *person* to own or operate an *EPAMD business* without a *permit*.

§83.0404 Application for Permit

- (a) Each *EPAMD business* shall submit a *permit* application containing, at a minimum, the following:
- (1) the *EPAMD business*' name and business address;
 - (2) proof of a valid Business Tax Certificate issued in accordance with Chapter 3, Article 1 of this Code;
 - (3) proof of insurance naming the City of San Diego, its officers, and employees, as an additional insured in the form and amounts established by the City Manager; and
 - (4) an agreement to indemnify, defend, and hold the City of San Diego, its officers, and employees harmless from claims and damages arising out of or related to the activities of the *EPAMD business* under the *permit* or operation of its business within the City of San Diego.
- (b) The City Manager may require other information as part of the *permit* application, as permitted by law.
- (c) All fees must be paid at the time the *permit* application is submitted.

§83.0405 Issuance and Term of Permit

- (a) All *permit* applications must be accompanied by a non-refundable fee in accordance with the fee schedule established by resolution of the City Council. This fee covers the City of San Diego's cost of reviewing and processing the *permit*.

- (b) The City Manager shall issue a *permit* upon the *EPAMD business'* payment of fees required in this Division and the City Manager's determination that the *permit* application is complete, accurate, and in compliance with this Division.
- (c) The *permit* shall expire on the same day the *EPAMD business'* Business Tax Certificate expires.
- (d) If the *permit* application is denied, the notification and reasons therefor shall be set forth in writing and shall be sent to the applicant by means of registered mail or certified mail, or shall be hand-delivered to the applicant.

§83.0406 Safety Regulations

- (a) *EPAMD businesses* shall ensure that their riders obey the following rules:
 - (1) conform to the weight specifications recommended by the *EPAMD* manufacturer;
 - (2) only one rider per *EPAMD*;
 - (3) riders under 18 years old must be accompanied by a parent or guardian;
 - (4) not operate an *EPAMD* under the influence of alcohol, drugs, or controlled substances;
 - (5) groups of two or more riders must travel together in a single-file procession.
- (b) *EPAMD businesses* shall ensure that every *person* employed by the business who conducts guided *EPAMD* tours has a valid California driver's license.

- (c) *EPAMD businesses* shall ensure that their *EPAMDs* are equipped with safety mechanisms as set forth in *Vehicle Code* section 21281.
- (d) *EPAMD businesses* shall inform their riders of the requirements of *Vehicle Code* section 21281.5 prior to riding an *EPAMD*.

§83.0407 Enforcement Authority

In addition to the remedies provided in Chapter 1 of this Code, the City Manager may revoke a *permit* if the *EPAMD business* violates any provision of this Division or the terms of the *permit*.

Section 2. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By

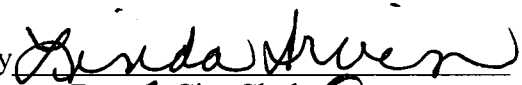


Miguel Merrell
Deputy City Attorney

MM:jvg
06/27/19
09/12/19 COR. COPY
Or.Dept: Risk Management
Doc. No.: 2040268_6

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 10 2019.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9/17/19
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

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Division 4: Electric Personal Assistive Mobility Device Businesses

§83.0401 **Purpose and Intent**

It is the purpose and intent of this Division to regulate *electric personal assistive mobility device businesses* in the City of San Diego by requiring a *permit* to operate. These regulations are intended to ensure the protection of public health and safety.

§83.0402 **Definitions**

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EPAMD business means a *person* who manages, owns, or operates a business that offers for rent one or more *EPAMDs*.

Permit means an official authorization issued by the City of San Diego to an *EPAMD business* under this Division.

§83.0403 **Permit Required**

It is unlawful for any person to own or operate an EPAMD business without a permit.

§83.0404 **Application for Permit**

- (a) Each EPAMD business shall submit a permit application containing, at a minimum, the following:
- (1) the EPAMD business' name and business address;
 - (2) proof of a valid Business Tax Certificate issued in accordance with Chapter 3, Article 1 of this Code;
 - (3) proof of insurance naming the City of San Diego, its officers, and employees, as an additional insured in the form and amounts established by the City Manager; and
 - (4) an agreement to indemnify, defend, and hold the City of San Diego, its officers, and employees harmless from claims and damages arising out of or related to the activities of the EPAMD business under the permit or operation of its business within the City of San Diego.
- (b) The City Manager may require other information as part of the permit application, as permitted by law.
- (c) All fees must be paid at the time the permit application is submitted.

§83.0405 **Issuance and Term of Permit**

- (a) All permit applications must be accompanied by a non-refundable fee in accordance with the fee schedule established by resolution of the City Council. This fee covers the City of San Diego's cost of reviewing and processing the permit.
- (b) The City Manager shall issue a permit upon the EPAMD business' payment of fees required in this Division and the City Manager's determination that the permit application is complete, accurate, and in compliance with this Division.
- (c) The permit shall expire on the same day the EPAMD business' Business Tax Certificate expires.
- (d) If the permit application is denied, the notification and reasons therefor shall be set forth in writing and shall be sent to the applicant by means of registered mail or certified mail, or shall be hand-delivered to the applicant.

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- (c) EPAMD businesses shall ensure that their EPAMDs are equipped with safety mechanisms as set forth in Vehicle Code section 21281.
- (d) EPAMD businesses shall inform their riders of the requirements of Vehicle Code section 21281.5 prior to riding an EPAMD.

§83.0407 Enforcement Authority

In addition to the remedies provided in Chapter 1 of this Code, the City Manager may revoke a permit if the EPAMD business violates any provision of this Division or the terms of the permit.

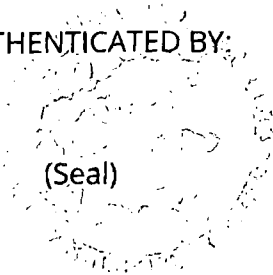
MM:jvg
07/03/19
Or.Dept: Risk Management
Doc. No.: 2043887_5

Passed by the Council of The City of San Diego on SEP 10 2019, by the following vote:

Councilmembers.	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 17 2019.

AUTHENTICATED BY:



(Seal)

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

AUG 06 2019

, and on

SEP 17 2019

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.



(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

21130

Ordinance Number O-_____