CITY OF SANIBEL
LEGAL DEPARTMENT

MEMORANDUM

TO: **Members of City Council**

FROM: **Kenneth B. Cuyler** KBC
City Attorney

DATE: **April 29, 2014**

RE: **Possible regulations relating to the operation of Segways within the City**

At the April 1, 2014 City Council meeting I reported to you that the state statute regulating electric personal assistive mobility devices (EPAMD) (such devices commonly known as Segways, but which may be sold under other brand names). A local government body such as the City Council may now "regulate" such devices if it determines "that regulation is necessary in the interest of safety," but cannot "prohibit" such devices. I indicated that I would provide a memo with potential regulations which the City Council can consider if it "determines that regulation is necessary in the interest of safety."

These potential regulations relate to the use of Segways by individuals, not the approved tour operation that is authorized within the City. Additionally, I am not providing a recommendation that such regulations be implemented; that is a policy decision to be considered by Council. The purpose of this memo is to provide the type of regulations that might be considered if the City Council determined regulations were necessary "in the interest of safety."

Potential regulations:

1) The maximum speed at which a Segway may be operated.

2) A minimum age for the operator of a Segway.

3) A prohibition on the operation of Segways on streets or roads except to cross at intersections. The statute is unclear as to whether this type of restriction would be upheld if challenged because the statute permits Segways on "any street or road where bicycles are permitted." It appears, however, that if Segways were permitted on the shared use paths, the City Council should be able to prohibit Segways on roadways in the interest of safety.

4) A prohibition on the use of Segways on the various environmental trails within the City (e.g. Pond Apple Park Trail).

5) A prohibition on the use of Segways on the sandy beaches of the gulf or bay or on beach walkovers.

6) If the City Council finds that such devices are unsafe in beach parking lots, a prohibition on Segways within such beach parking lots (for example, there may be a lack of places to park such devices).

7) A prohibition on the use of Segways on the shared use paths at night unless appropriately lighted.

I will be available at your May 6, 2014 City Council meeting to discuss these potential areas of regulation and to answer any questions regarding the City's authority with regard to such regulations.

KBC/jg

cc: Judie A. Zimomra, City Manager
Pamela Smith, City Clerk

CITY OF SANIBEL
LEGAL DEPARTMENT

MEMORANDUM

TO: **Members of City Council**

FROM: **Kenneth B. Cuyler** KBC
City Attorney

DATE: **March 24, 2014**

RE: **Change in Status of Electric Personal Assistive Mobility Devices (Brand Name: Segway) in Florida Statutes**

It has recently come to my attention that the State Legislature amended Section 316.2068, Florida Statutes, relating to Electric Personal Assistive Mobility Devices (EPAMD) (commonly known by the brand name "Segway").

Since I had not heard or read anything about a proposed or adopted amendment to the statute, and had not heard or received anything from the Florida League of Cities or State Association of Counties, or from any other municipality or from any member of the public, I reviewed the history of the Legislative Amendment. During the 2012 Legislative Session there was a 187 page Legislative Bill passed that, not uncommonly, amended a myriad of different statutes. On Page 43 of Page 187 of the Bill, there were several words amended in Section 316.2068 which regulates EPAMD's/Segways. The important statutory amendment was that the word "prohibit" was changed to "regulate", specifically:

> A county or municipality may regulate ~~prohibit~~ the operation of electric personal assistive mobility devices on any road, street, sidewalk or bicycle path under its jurisdiction if the governing body of the county or municipality determines that regulation ~~such a prohibition~~ is necessary in the interest of safety.

For your information, I have attached the one page of the 187 page Legislative Bill that contains the relevant amending language. I have also attached the current version of Section 316.2068, Florida Statutes.

The City of Sanibel currently has an Ordinance that prohibits Segways under the pre-amended statute "in the interest of safety" (other than for regulated Segway tours approved by the City). As you can see from the amended language above, counties and cities are no longer allowed to completely prohibit Segways; counties and cities now have the authority to " regulate" Segways. Although the statute does not provide parameters or guidance on the type, manner or degree of regulation, a reasonable interpretation might include speed, possibly areas of particular congestion or specific safety concerns, or other identifiable safety issues.

The City Council needs to make a determination as to whether it wishes to consider the regulation of EPAMD's, commonly known as Segways, "in the interest of safety". If the Council does wish to consider such regulation, my recommendation would be to consider this issue at the next regularly scheduled City Council meeting with input and recommendations from City Staff (including at least the City Manager, Police Chief, Planning Director, Public Works Director and City Attorney). The Council would then be in a position to determine whether it was City Council's desire to proceed with an Ordinance regulating EPAMD's and, if so, to provide direction to City Staff with respect to the Ordinance.

KBC/jg

cc: Judie A. Zimomra, City Manager
Pamela Smith, City Clerk

Attachments (as stated)

1177 the traffic citation must be mailed to the first name appearing
1178 on the registration, unless the first name appearing on the
1179 registration is a business organization, in which case the
1180 second name appearing on the registration may be used. A
1181 citation issued under this paragraph must be mailed to the
1182 registered owner of the motor vehicle involved in the violation
1183 within 14 days after the date of issuance of the citation. In
1184 addition to the citation, notification must be sent to the
1185 registered owner of the motor vehicle involved in the violation
1186 specifying remedies available under ss. 318.14(12) and
1187 318.18(7).
1188 Section 13. Subsection (5) of section 316.2068, Florida
1189 Statutes, is amended to read:
1190 316.2068 Electric personal assistive mobility devices;
1191 regulations.—
1192 (5) A county or municipality may regulate ~~prohibit~~ the
1193 operation of electric personal assistive mobility devices on any
1194 road, street, sidewalk, or bicycle path under its jurisdiction
1195 if the governing body of the county or municipality determines
1196 that regulation ~~such a prohibition~~ is necessary in the interest
1197 of safety.
1198 Section 14. Paragraph (a) of subsection (3) and paragraphs
1199 (a) and (c) of subsection (5) of section 316.515, Florida
1200 Statutes, are amended to read:
1201 316.515 Maximum width, height, length.—
1202 (3) LENGTH LIMITATION.—Except as otherwise provided in
1203 this section, length limitations apply solely to a semitrailer
1204 or trailer, and not to a truck tractor or to the overall length

Select Year: 2013 Go

The 2013 Florida Statutes

Title XXIII	Chapter 316	View Entire Chapter
MOTOR VEHICLES	STATE UNIFORM TRAFFIC CONTROL	

316.2068 Electric personal assistive mobility devices; regulations.—

(1) An electric personal assistive mobility device, as defined in s. 316.003, may be operated:

(a) On a road or street where the posted speed limit is 25 miles per hour or less.

(b) On a marked bicycle path.

(c) On any street or road where bicycles are permitted.

(d) At an intersection, to cross a road or street even if the road or street has a posted speed limit of more than 25 miles per hour.

(e) On a sidewalk, if the person operating the device yields the right-of-way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.

(2) A valid driver's license is not a prerequisite to operating an electric personal assistive mobility device.

(3) Electric personal assistive mobility devices need not be registered and insured in accordance with s. 320.02.

(4) A person who is under the age of 16 years may not operate, ride, or otherwise be propelled on an electric personal assistive mobility device unless the person wears a bicycle helmet that is properly fitted, that is fastened securely upon his or her head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets which are adopted by the department.

(5) A county or municipality may regulate the operation of electric personal assistive mobility devices on any road, street, sidewalk, or bicycle path under its jurisdiction if the governing body of the county or municipality determines that regulation is necessary in the interest of safety.

(6) The Department of Transportation may prohibit the operation of electric personal assistive mobility devices on any road under its jurisdiction if it determines that such a prohibition is necessary in the interest of safety.

History.—s. 68, ch. 2002-20; s. 18, ch. 2012-174.

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