



CITY OF RAPID CITY

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MEMORANDUM

TO: Mayor and Common Council Members

FROM: Carla Cushman, Assistant City Attorney

DATE: January 16, 2019

RE: Segways on downtown sidewalks

The January 22 Council meeting includes an item from the public requesting that City ordinances be amended to allow Segways on downtown sidewalks.

As the ordinance reads today, electric personal assistive devices such as Segways are considered “vehicles” under City ordinance and are therefore prohibited from driving on sidewalks. The City would need to amend its ordinances in order to allow Segways to drive on sidewalks. While the Council has the discretion to adopt such a rule, it would deviate significantly from the current City policy that prohibits bikes, skateboards, and vehicles on downtown sidewalks.

Laws governing PADs

State law addresses electrical personal assistive devices (PADs) within its motor vehicle sections, found in Title 32, defining them as a self-balancing device for one person with an electric propulsion system with a speed that cannot exceed 15 miles per hour. *See SDCL 32-26-21.2.* PADs are exempt from numerous state law provisions governing motor vehicles in general (vehicle registration, taxation, requirements for vehicles lights and child restraints, among others). However, PADs *are* considered vehicles within the state’s motor vehicles laws, meaning that some state laws regulating motor vehicles apply to PADs operated on streets and rights of way. *See SDCL 32-26-21.3.*

The City does not have an ordinance that specifically regulates or defines Segways or personal assistive devices. Instead, as the ordinances are written today, PADs would fall within the motor vehicle definitions, which govern the use within the City of all “self-propelled” devices. *RCMC 10.04.180*.¹

Please note that to the extent that disabled or handicapped people utilize assistive devices such as electric wheelchairs on sidewalks or elsewhere in the City, such use is not in any way limited by these City ordinances. The Council’s decision on this particular request would not alter, and does not concern, use of assistive devices by disabled or handicapped individuals, who fall within the Americans with Disabilities Act and other state and federal laws.

Laws governing sidewalks

State law prohibits driving on the sidewalk for any vehicle “other than a bicycle or an electric personal assistive device,” but then gives municipalities the authority to “restrict a bicycle or an electric personal assistive device from operating upon a sidewalk.” *SDCL 32-26-21.1*. Elsewhere, state law authorizes a city to regulate the use of its sidewalks and streets, including riding and driving on sidewalks and practices which have “a tendency to annoy persons frequenting” the sidewalk. *SDCL 9-30-2*.

Based on these statutes, Rapid City has adopted specific regulations governing sidewalk use. First, the definition for sidewalk states that it is the portion of a street between the curb and adjacent property lines “set aside for the use of pedestrians,” which is further defined as “any person afoot.” *RCMC 10.04.340; 10.04.240*. Accordingly, the code prohibits bike operation on sidewalks within the Central Business District, and it gives the Traffic Engineer further discretion to prohibit bicycles on any sidewalk or roadway in any other location. *RCMC 10.64.210*. Rapid City also prohibits motor vehicles from stopping, standing, or parking on a sidewalk except in emergency situations, and vehicles may not park across a sidewalk or within a sight triangle. *RCMC 10.40.020.A.7; RCMC 10.40.200.4*.

The City further regulates sidewalk activities within the downtown area. In addition to prohibiting bicycles on downtown sidewalks, as described above, skateboard use is prohibited anywhere within a designated downtown area between East Boulevard and West Boulevard, including sidewalks and streets. *RCMC 10.52.010*. What City ordinance *does* allow on downtown sidewalks are stationary items such as sidewalk vendors and sidewalk cafes. *RCMC 12.12.030, 12.12.040 (applying to area between East and West Boulevards)*.

¹ Notably, PADs do not fall within today’s City’s bicycle ordinances in Section 10.64, which defines “bicycle” as a vehicle “propelled solely by human power.” *RCMC 10.64.010*. Please note that this definition of bicycle as self-propelled is different from the code provisions regulating bicycles in the parks; those ordinances were amended in 2018 to include e-bikes in the definition of bicycles which are allowed to operate on City parks and trails. *RCMC 12.24.050*. If someone wanted to use PADs within the parks, that ordinance would need to be further amended to allow such a use.

Summary

Current City ordinance would not allow Segways or PADs on downtown sidewalks, as they would be considered motor vehicles. Changing City ordinance to allow PADs on downtown sidewalks would deviate from the policy, established in the City's code, that downtown sidewalks are for pedestrians and for commerce (i.e. sidewalk vendors and cafes). Allowing PADs on downtown sidewalks would likely diminish the pedestrian experience of downtown streets and could result in an expectation that sidewalks are available for bicycles, skateboards, and other modes of transport.

If the Council is inclined to grant this request, I would recommend that the ordinance define a specific zone where PAD use on the sidewalk is permitted, possibly encouraging it in areas East of Fifth and/or outside of the core downtown area. I would also recommend that the ordinance address the number of PADs that may travel together, PAD parking, and other considerations to diminish the conflict between PADs and pedestrian uses, sidewalk cafes, and vehicles traveling downtown.

If there is any other way I can assist on this matter, please give me a call at 394.4140 or email me at carla.cushman@rcgov.org.