Ordinance

Ordinance No. 34 OF THE CITY OF ATLANTIC CITY, N.J. Date..4-22-2015 Date to Mayor.....

Approved as to Form and Legality on Basis of Facts Set Forth

Deputy City Solicitor /s/ Irving B. Jacoby

Factual contents certified to by

Business Administrator /s/ Arthur M. Liston

REVISED 6/25/2015 and 6/29/2015

Prepared by the City Solicitor's Office

Council Members MALIK & SMALL Present the following Ordinance:

AN ORDINANCE amending CHAPTER 210 of the CODE of the CITY of ATLANTIC CITY which REGULATES ROLLING CHAIRS

BE IT ORDAINED by the City Council of the City of Atlantic City as follows:

SECTION 1.

Chapter 210. Rolling Chairs

[HISTORY: Adopted by the City Council of the City of Atlantic City as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Beaches, Boardwalk and oceanfront — See Ch. **92**.
Boardwalk trams — See Ch. **98**.
Taxicabs, jitneys and vehicles for hire — See Ch. **233**.

Article I. General Provisions

[Adopted 10-26-1988 by Ord. No. 61-1988]

§ 210-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICANT

A person, partnership, joint venture, corporation or other business entity applying for a license to operate or own one or more rolling chairs.

BOARDWALK

The elevated walk or promenade extending along the oceanfront of Atlantic City, including the extension access ramps to the street ends.

DIRECTOR

The Director of Licensing and Inspections of the City of Atlantic City or his designee.
Amended 2-22-2006 by Ord. No. 10-2006; 1-27-2010 by Ord. No. 03-2010]

LANE

Each herringboned designed portion of the Boardwalk.

LICENSEE

The person, partnership, joint venture, corporation or other business entity in whose name an operator or owner license is issued by the City.

OPERATOR

The person or persons pushing a rolling chair.
[Amended 6-8-1994 by Ord. No. 38-1994]

OWNER

The person, partnership, joint venture, corporation or other business entity actually owning or leasing a rolling chair.

RATE CARD

A card placed in front of the rolling chair in full view of all passengers, with black lettering and red numerals on a white background, setting forth the rates to be charged. The rate card shall be no smaller than eight inches tall by 12 inches wide, and the lettering and numerals shall be no smaller than one-inch high, Hellenic bold style. The rate card shall also carry the message, "For complaints call the Atlantic City Mercantile Office," with the appropriate phone number.

ROLLING CHAIR

A wheeled vehicle capable of transporting up to three passengers, powered manually, and having measurements not exceeding 50 inches in width, by inside seat measurements; 60 inches in overall length; and 78 inches in overall height, nor weight exceeding 33 pounds per square inch loading on the Boardwalk. It is the intent of this article that chairs have the original design of the late 1800s to early 1950s or be a replica of the original design in order to preserve the historic value of the rolling chair.
[Amended 6-8-1994 by Ord. No. 38-1994]

STAGING AREA

An area preapproved and marked out by the Director along the southern (oceanside) railing of the Boardwalk in which rolling chairs await passengers or their turn to occupy a rolling chair stand.
[Added 2-22-2006 by Ord. No. 10-2006; amended 4-19-2006 by Ord. No. 24-2006]

STAND

A location designated by the Director on the Boardwalk where a single rolling chair may await passengers.

STATION

An enclosed, stationary location wherein rolling chairs are stored and from which rolling chairs are dispatched onto the Boardwalk. Every such station shall be situated near and with immediate access to the Boardwalk such that a dispatched rolling chair need not cross Pacific Avenue in order to enter thereon.

~~**STATIONARY ROLLING CHAIRS**~~

~~A rolling chair as defined above that is licensed only to occupy a fixed position on the southerly rail of the Boardwalk but is otherwise subject to all provisions of this chapter except as specifically excepted.~~
~~[Added 6-14-2006 by Ord. No. 39-2006]~~

§ 210-2. License required; fees.

A. No person, partnership, joint venture, corporation or other business entity shall own a rolling chair on the Boardwalk in Atlantic City without first establishing a station for the storage and maintenance of said rolling chair and obtaining an owner license for each such rolling chair from the Mercantile License Bureau. No person shall operate a rolling chair on the Boardwalk in Atlantic City without first being issued an operator license from the Mercantile License Bureau. Owner and operator licenses shall be effective from the first day of May each year and shall expire on the last day of April the following year.
[Amended 6-8-1994 by Ord. No. 38-1994]
B. The annual license fee for each rolling chair shall be $100. ~~for the first 25 rolling chair licenses held by the same owner and $50 per chair for each additional license held by that owner~~. The annual license fee for each operator shall be $75. ~~A license fee of $50 shall be charged for each operator who receives a license after October 1 of the licensing year~~. [Amended 4-12-1995 by Ord. No. 26-1995; 2-22-2006 by Ord. No. 10-2006]
C. Application for license.

(1) Each applicant for a rolling chair owner or operator license shall fully and accurately complete a license application form to be provided by the Director. The application may be delayed or rejected if an applicant fails to fully complete the license application form, fully document specifically requested information or comply with an additional request for information or documentation required under this article.

(2) If an applicant knowingly supplies incomplete or inaccurate information, the license application shall be rejected by the Mercantile License Bureau and the applicant barred from reapplying for such license for a period of up to 18 months from the date of the rejection, the length of such period to be determined by the Director based upon the extent and seriousness of the missing or inaccurate information.

D. Each applicant for a rolling chair owner license shall submit, together with a completed license application form, the following:

(1) Payment of the appropriate license fee.

(2) A copy of the owner's certificate of occupancy for the rolling chair station.

(3) A copy of the rolling chair manufacturer's specifications indicating the loading weight per square inch.

(4) Proof of an insurance policy issued by an insurance company licensed to do business in the State of New Jersey insuring the licensee and the City of Atlantic City against all claims for damage to property or bodily injury, including death, which may rise from or in connection with the rolling chair operation. Such insurance shall name the City of Atlantic City as an additionally insured and shall provide that the policy shall not terminate or be canceled prior to its normal expiration date without 30 days advance written notice to the City. The amounts of insurance to be maintained under such policy are: a combined single limit policy of $1,000,000.
[Amended 6-8-1994 by Ord. No. 38-1994]
E. Upon the applicant's submission of the fees and documentation required in Subsections **B**, **C** and **D** above, the Director shall cause an inspection of each rolling chair to be made by the City Inspectors. Upon notification of the Inspectors approval of the rolling chair and the Director's review and approval of the license application and accompanying documentation, a rolling chair owner mercantile license shall be issued forthwith.

F. [1] All applicants for new or renewal operator licenses shall provide such information as the Director requires, including but not limited to a drug test, fingerprinting and the findings of a criminal record check obtained from the State Bureau of Identification and the New Jersey State Police. Upon receipt of a completed background check conducted by the State Bureau of Identification in the New Jersey State Police and/or the Federal Bureau of Investigation, Identification Division, together with a drug test and fingerprinting, the Director shall notify the applicant of affirmative or negative results. The determination of the Director shall be based upon a review of any prior convictions for crimes or offenses which negatively impact the health, safety and welfare of the public. In the event a current holder of a rolling chair operator license fails the drug test and/or criminal record check, said license holder shall have 90 days to cure such defect, at which point an operator license would be issued.
[Added 4-25-2012 by Ord. No. 36-2012]

[1]: *Editor's Note: Former Subsection F, which dealt with licenses for operating motorized rolling chairs, was repealed 6-8-1994 by Ord. No. 38-1994.*

G. An owner or operator licensee shall notify the Mercantile License Bureau, in writing, of any material change in the information contained within the license application and accompanying documentation within 10 days of such change. Any failure to provide the aforesaid notification shall be cause for the revocation of such license in addition to any other sanction reasonably imposed by the Director.

H. The licenses issued pursuant to this article are non-assignable and nontransferable.

I. There shall be a limit of 305 rolling chair owner licenses; however, no more than 150 licenses shall be issued to any one person or any entity or combination of entities in which there is common ownership with another license holder. For purposes of this section, the restriction against "common ownership" shall mean that no individual or entity owning more than 50% of one licensee may have a direct or indirect interest in another licensee of greater than 49%. ~~Rolling chairs licensed as stationary rolling chairs shall not count against the maximum number described herein.~~
[Added 5-5-2004 by Ord. No. 31-2004; 6-14-2006 by Ord. No. 39-2006]

J. (Reserved)[2]

[2]: *Editor's Note: Former Subsection J, which limited the number of stationary chair licenses, was repealed 8-4-2010 by Ord. No. 52-2010.*

K. (Reserved)[3]

[3]: *Editor's Note: Former Subsection K, which provided location requirements for stationary chairs, was repealed 8-4-2010 by Ord. No. 52-2010.*

L. Notwithstanding the limitations in Subsection **I** above, each rolling chair owner shall be permitted to license the number of rolling chairs as that owner had licensed in the year 2004 when the limiting ordinance became effective. The permission for continued licensing of chairs in excess of the maximum set in Subsection **I** above shall remain effective only as long as a particular owner continues to license the additional chairs. Should an affected owner fail to license any number of chairs in excess of the maximum set in Subsection **I** by August 31 of any year subsequent to this 2006 Code amendment, then the total permitted licenses for that owner shall be reduced to the greater of 150 or the number licensed in that year.
[Added 6-14-2006 by Ord. No. 39-2006]

§ 210-3. Inspections.

A. Every rolling chair shall be inspected prior to the issuance of an owner license and at least ~~once~~ two a times per year thereafter, on a schedule to be determined by the Director, or as often as deemed necessary by the Director.

B. Each rolling chair shall have a frame attached to the left rear of the body above the level of the seat to hold the current mercantile license and a clearly visible number adjacent thereto, which number also be placed on the front of the vehicle and shall be reflected on said mercantile license.
[Amended 9-26-2012 by Ord. No. 60-2012]

C. Except as specifically provided for hereinafter, there shall be no sound-producing device, including but not limited to a radio, recorder, bell, horn, loudspeaker, amplifier or any other instrument or device capable of producing noise, music or sound, attached to or placed in or upon the rolling chair or operator.

D. [1]The interior and exterior of each rolling chair shall be kept clean, seat cushions shall be free of tears and the rolling chair subject to regular painting.
[Added 2-22-2006 by Ord. No. 10-2006; amended 4-19-2006 by Ord. No. 24-2006]

[1]: *Editor's Note: Former Subsection D, which dealt with warning devices for power-driven rolling chairs, was repealed 6-8-1994 by Ord. No. 38-1994.*

E. (Reserved)[2]

[2]: *Editor's Note: Former Subsection E, which dealt with additional equipment for power-driven rolling chairs, was repealed 6-8-1994 by Ord. No. 38-1994.*

F. Each rolling chair shall have a maximum capacity of not more than three adults and shall not exceed the measurements and weight listed under § **210-1**.

G. Each rolling chair shall be maintained by its owner in good repair and condition. The owner shall be responsible for compliance with each of the provisions above.
[Amended 2-22-2006 by Ord. No. 10-2006]

H. An owner or operator who has been found guilty in Municipal Court of violating the provisions of Subsection **C**, **D**, **E** or **F** on three separate occasions within a twelve-month period shall, upon such third conviction, be subject to immediate suspension of his license for a period of up to one year, in addition to any other penalty hereinafter authorized.
[Amended 6-14-2006 by Ord. No. 39-2006]

§ 210-4. Rates.

A. The rate to be charged for hire of a rolling chair for one or two persons shall be:
[Amended 4-19-2006 by Ord. No. 24-2006]

(1) Zero to five blocks: $5.

(2) Six to 10 blocks: $10.
[Amended 7-10-2013 by Ord. No. 39-2013]
(3) Eleven to 15 blocks: $15.
[Amended 7-10-2013 by Ord. No. 39-2013]
(4) Sixteen blocks and above: $1 per block.
[Amended 7-10-2013 by Ord. No. 39-2013]
(5) Half-hour tour: $30.
[Amended 7-10-2013 by Ord. No. 39-2013]
(6) One-hour tour: $50.
[Amended 7-10-2013 by Ord. No. 39-2013]
B. [1]The rate to be charged for a third person shall be an additional charge of $5.
[Amended 4-19-2006 by Ord. No. 24-2006; 7-10-2013 by Ord. No. 39-2013]

[1]: *Editor's Note: Former Subsection B, which dealt with rates for power-driven rolling chairs, was repealed 6-8-1994 by Ord. No. 38-1994.*

C. All rates authorized under this section shall be posted on a rate card conspicuously posted within each rolling chair. The rate card shall also comply with all requirements set forth in the definitions section, § **210-1**, above.
[Amended 4-19-2006 by Ord. No. 24-2006]
D. It shall be unlawful for an owner or operator, at any time or under any circumstances, to charge a different price than that fixed on the rate card. Any operator or owner found to be charging more or less than the rate card price shall be subject to the suspension or revocation of his or her license by the Director, in addition to any other penalty hereinafter authorized.

E. The rates to be charged for the rental of a stationary rolling chair shall be fixed by the owner of that chair and need not be posted within that stationary rolling chair but shall be submitted for review and approval by the Director.
[Added 6-14-2006 by Ord. No. 39-2006]

§ 210-5. Rules governing operators.

A. It shall be unlawful for any operator to:

(1) Operate a rolling chair while under the influence of intoxicating liquor or a controlled dangerous substance or to be found in possession of such liquor or controlled dangerous substance.

(2) Operate a rolling chair in excess of four miles per hour or in so careless a manner as to endanger pedestrians in the path or immediate vicinity of said operator and chair.

(3) Operate a rolling chair without wearing the photo identification badge issued by the Mercantile License Bureau on the outside of his or her clothing and in plain view at all times.

(4) Solicit the hiring of a rolling chair from any location by use of the human voice or any mechanical reproduction thereof or by gestures or any means whatsoever.

(5) Await passengers in a fixed location other than at a stand designated by the Director. ~~stands or immediately adjacent to the southern (oceanside) railing of the Boardwalk.~~

(6) [1]Operate a rolling chair without the proper uniform as defined in Subsection **D** below or in bare feet.
[Added 2-22-2006 by Ord. No. 10-2006]

[1]: *Editor's Note: Former Subsection A(6), regarding the display of advertisements on rolling chairs, as amended 6-8-1994 by Ord. No. 38-1994, was repealed 4-26-1995 by Ord. No. 30-1995.*

(7) Allow any other person to operate his or her assigned rolling chair.

B. An operator who has been found guilty in Municipal Court of violating the provisions of Subsection **A(2)**, (5) or **(6)** on two separate occasions within a twelve-month period shall, upon such second conviction, be subject to immediate suspension of his license for a period of one year, in addition to any other penalty hereinafter authorized.
[Amended 9-8-2010 by Ord. No. 57-2010]
C. Operators shall conduct themselves in a decent and proper manner and shall refrain from the use of profanity while operating a rolling chair.

D. Operators shall be neat and clean at all times. All operators shall be properly attired in a uniform consisting of a navy blue or white, short- or long-sleeved, collared shirt and navy blue or black or white or khaki pants or Bermuda-type shorts or white shorts. All shorts worn must be a minimum length not less than one inch above the knee. Sweat pants and cutoff shorts are prohibited at all times. All operators shall be properly attired in solid colors, prohibiting designs, patterns or stripes. All coats, such as windbreakers and jackets, worn while operating a rolling chair shall be navy blue or black and solid colors, prohibiting designs, patterns or stripes. An owner may supply and require the rolling chair operator(s) to wear a standard company uniform and/or additional outerwear that does not comply with the uniform elements described above upon the written approval of the Director of Licensing and Inspections.
[Amended 8-8-1990 by Ord. No. 59-1990; 2-22-2006 by Ord. No. 10-2006; 4-19-2006 by Ord. No. 24-2006; 7-26-2006 by Ord. No. 61-2006; 3-13-2013 by Ord. No. 8-2013; 5-8-2013 by Ord. No. 27-2013]
E. The Director may revoke the license of any operator found guilty in the Municipal Court of violating any provisions of this section two or more times. Such operator shall not be eligible to apply for another license for at least one year.
F. Operators shall take a training course developed by the Director which shall include, but not be limited to, training on applicable ordinances and rules, instruction on customer service and working hour restrictions.
G. No operator shall work more than twelve hours in a twenty-four hour period.
H. Nothing in this article shall be construed to allow the operation of a pedicab, provided, however, that the Director, in conjunction with City Council, may authorize a pilot program to study the use of pedicabs.
I. An owner shall be subject to fines and other penalties as provided for in § 210-8 of this chapter for any violations of § 210-5.

§ 210-6. Operation regulations.

[Amended 6-8-1994 by Ord. No. 38-1994; 4-12-1995 by Ord. No. 27-1995; 4-26-1995 by Ord. No. 30-1995; 6-2-2004 by Ord. No. 46-2004; 2-22-2006 by Ord. No. 10-2006; 4-19-2006 by Ord. No. 24-2006]

A. Rolling chair stands and staging areas.

(1) While awaiting passengers at fixed locations, rolling chairs are permitted only in designated rolling chair stands pursuant to § **210-6B** ~~and in the staging areas located at the southern (oceanside) railing of the Boardwalk~~.

(2) Rolling chair stands shall only be permitted at locations to be designated by the Director. The Director shall determine the site and number of stands based upon their proximity to areas of significant pedestrian concentration along the Boardwalk. Such locations shall be clearly demarcated ~~on the Boardwalk~~ and only so large as to contain one rolling chair. No more than two stands may be placed in front of any one hotel or other commercial or public facility fronting on the Boardwalk, and no stand may be located closer than 12 feet from the entrance to such a facility.

(3) Rolling chair stands shall be utilized on a first-come-first-served basis. Second and subsequent operator arrivals must line up in the staging areas ~~at the southern (oceanside) railing or such other area~~ designated by the Director and take a place at the stand when it becomes vacant. The Director shall promulgate such additional rules and regulations as he deems necessary to facilitate and control the reasonable use of rolling chair stands and staging areas ~~on the Boardwalk~~, and said stands shall be utilized in accordance therewith.

(4) While an operator's rolling chair is in the stand area, the operator may not eat, drink or smoke. Except in inclement weather when precipitation is falling and for a period not to exceed three minutes every half hour, an operator may not sit on, in or upon the rolling chair while in the stand area.
[Added 7-26-2006 by Ord. No. 61-2006]
B. Rolling chairs shall be operated only on the Boardwalk except when entering or leaving a rolling chair station.

C. Rolling chairs shall be operated only on the center ribbon(s) of the Boardwalk. Where the Boardwalk is less than 60 feet in width, rolling chairs shall be operated on the third ribbon from the landward side of the Boardwalk.

D. No rolling chair may be left unattended while on the Boardwalk except on an oceanside railing location immediately adjacent to a rest room facility and then for only as long as the operator is within that facility.

E. Operators are prohibited from sleeping in a rolling chair at any time.

F. No items shall be placed, stowed or stored on the roof of a rolling chair at any time nor shall any item be hung from any external area of the rolling chair.

G. Advertising shall be permitted on rolling chairs.

H. All rolling chairs must be removed from the Boardwalk between 5:00 a.m. and 7:00 a.m.

I. Every owner shall, at all times of operation, maintain a log in a form approved by the Director for each rolling chair which shall be available for inspection, and a copy of which provided, at the request of the Director or his agent. Logs must be maintained with all information pertaining to the current month. The prior month's log shall be kept with the current log and also available for inspection and copying if requested. The log(s) shall include the following documentation for each shift of operation (which shift shall in no event be in excess of one day), in addition to such other information deemed necessary by the Director:
[Amended 7-26-2006 by Ord. No. 61-2006]

(1) The owner's name and the location of his or her station.

(2) The rolling chair number and mercantile license number.

(3) The operator's name and operator license number.

(4) The date and time the rolling chair was assigned to the aforesaid operator.

J. Prior to assigning a rolling chair to an operator, the owner shall be provided with satisfactory evidence, in the form of the operator's photo identification badge, that said individual holds a valid operator license.

K. No operator shall bring onto the Boardwalk more than one rolling chair nor shall any operator operate more than one rolling chair at any time.

L. All operators shall issue to passengers on company-provided pre-printed forms a written receipt at the conclusion of each trip including the following information:
[Added 6-27-2012 by Ord. No. 47-2012]

(1) The operator's name and operator license number.

(2) The rolling chair number.

(3) The block-to-block trip description.
(4) The rate, total cost, date and time of trip and operator signature.

(5) The rolling chair company name.

§ 210-7. Authority of Director.

A. The Director shall have the authority to promulgate such additional rules and regulations as he deems reasonably necessary for the inspection, licensing and control of rolling chair operations, operators and owners, and such rules and regulations shall be kept on file with the City Clerk of Atlantic City, accessible on the website of the City of Atlantic and shall be made available upon request by any interested party.

B. The Director is authorized and empowered to revoke, suspend or withhold approval of the license of any applicant, operator or owner for sufficient cause, based upon a violation of any provision of this article or in furtherance of the health, safety and welfare of Atlantic City. Except as provided for hereinafter, such action shall only be taken after affording the applicant, operator or owner an opportunity for a hearing, by written notification which shall be provided to the applicant, operator or owner by certified mail, return receipt requested, to his or her last known address or by personal service, at least 5 days prior to the hearing.

C. The aforesaid notice shall contain the date, time and location of the hearing, as well as the specific reasons for the intended revocation, suspension or applicant rejection. The failure of the individual or designated corporate officer to appear for such hearing shall be deemed a default, and the Director shall proceed with his anticipated action against the license or application.

D. The Director is further authorized and empowered to suspend, pending the hearing, any license or to impound any rolling chair if he deems that the health, safety and welfare of the community is in immediate jeopardy by the licensee's continued operation.

E. The Administrative Review Board shall hear any and all appeals from determinations made by the Director under this section.
[Added 6-8-1994 by Ord. No. 38-1994]
F. The Director or his designee is further authorized and empowered to tow any rolling chair from the Boardwalk that has been unattended or abandoned or has been determined by an inspector to be in a condition dangerous to the public and has not been removed or satisfactorily repaired by the operator. The owner shall be responsible for the same fees charged for the towing and storage of a motor vehicle by the City.
[Added 4-19-2006 by Ord. No. 24-2006]

§ 210-8. Violations and penalties.

[Amended 11-25-2008 by Ord. No. 104-2008; 8-4-2010 by Ord. No. 52-2010]

A. The owner of said rolling chair license and/or any person violating any provision of this article shall, upon conviction in the Municipal Court, be punished by a fine not exceeding $2,000 or imprisonment not exceeding 90 days, or both.

B. Each day's operation of an unlicensed rolling chair shall constitute a separate violation of this article for both the operator and owner.

C. Each time a rolling chair is found operating on the Boardwalk in violation of any provision of this article, it shall constitute a separate and distinct offense without regard to whether such chair shall have been so operated on the same or different days. This provision shall apply similarly to an unlicensed operator.[1]

[1]:
Editor's Note: Former Art. II, Use of Motorized Chairs on Boardwalk, adopted 11-23-1988 by Ord. No. 65-1988, which immediately followed, was repealed 6-8-1994 by Ord. No. 38-1994.

D. Violation of this article three or more times shall result in the suspension of the rolling chair license for thirty days and a fine not to exceed $2,000.

SECTION 2. Any Ordinance or parts of any Ordinance inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. This Ordinance shall take effect upon its final passage and publication as provided by law.

ADJOURNED 5-06-2015
ADJOURNED 5-20-2015
ADJOURNED INDEFINITELY 6-24-15
ADJOURNED 7-8-2015
ADJOURNED INDEFINITELY 8-12-2015

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RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO							MOORE						
MALIK							RANDOLPH						
MANCUSO							SMALL						
MARSH							TIBBITT						
							GILLIAM, PRESIDENT						

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on …APRIL 22, 2015……

Adopted on second and final reading after hearing on……

Approved By…/s/……Date……By Council……Ride Reconsidered ____ Aye Over ____ Nay

Mayor

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

…/s/……Rhonda Williams, .City Clerk