

MARY JO LANZAFAME  
ASSISTANT CITY ATTORNEY

RYAN P. KOHUT  
DEPUTY CITY ATTORNEY

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1620  
SAN DIEGO, CALIFORNIA 92101-4178  
TELEPHONE (619) 236-6220  
FAX (619) 236-7215

Jan I. Goldsmith  
CITY ATTORNEY

**MEMORANDUM OF LAW**

**DATE:** August 24, 2011

**TO:** Honorable Mayor and City Council

**FROM:** City Attorney

**SUBJECT:** Sixteen Passenger Pedal Cruiser

The City has been approached by several businesses who wish to operate a four-wheeled vehicle that would be pedal powered by as many as sixteen passengers. These vehicles would be used to provide tours utilizing the City's public roadways. The San Diego Municipal Code provides for the regulation of pedicabs, and the City has been asked if this new type of pedal powered vehicle would be subject to these pedicab regulations.

San Diego Municipal Code section 83.0102 defines a pedicab.

*Pedicab means:*

- (a) A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by a *person*, and that is used for transporting passengers for hire; or
- (b) A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by a *person*, and that is used for transporting passengers for hire.

While a bicycle is not defined within the San Diego Municipal Code, a definition is provided by the California Vehicle Code. Bicycle is defined as a “device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having one or more wheels.” Cal. Veh. Code § 231.

The vehicle being proposed is a pedicab under the San Diego Municipal Code. It has four wheels over which passengers are propelled exclusively by the pedaling of the passengers. Therefore, the vehicle is a bicycle under the California Vehicle Code because this type of bicycle also is being used to transport passengers for hire, it is also a pedicab under San Diego Municipal Code section 83.0102 and thus subject to all City regulations pertaining to pedicabs.

JAN I. GOLDSMITH, CITY ATTORNEY

By   
Ryan P. Kohut  
Deputy City Attorney

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