

**Johns &  
Kosel** Prof.  
LLC  

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Attorneys at Law

**Timothy R. Johns**  
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June 26, 2024

To: City of Deadwood Commission Members  
Mayor David R. Ruth, Jr.  
Commissioner Charlie Stuble Mook  
Commissioner Sharon Martinisko  
Commissioner Michael Johnson  
Commissioner Blake Joseph  
Deadwood City Hall  
102 Sherman Street,  
Deadwood, South Dakota 57732

Re: Operation of a Multi-Passenger Quadricycle on public streets by Crusin Cycle Co., L.L.C.,  
DBA Deadwood Party Pedaler

Dear Mayor and Commissioners:

Crusin Cycle Co., L.L.C., wanting to do business in the City of Deadwood, applied for and received a business license to operate its Multi-Passenger Quadricycle on the public streets which license was subsequently revoked for the reason that it was determined by your staff, based on an opinion of your attorney, Mr. Quentin Riggins, that it is a taxicab and would, therefore, require a taxicab license; none of which are currently available in Deadwood.

Crusin Cycle Co. disagrees that the Multi-Passenger Quadricycle qualifies physically as a taxicab as the term is defined in the ordinance and also disagrees that its use in Deadwood would qualify as a taxicab business as that term is defined in the ordinance. Crusin Cycle Co, L.L.C. also contends that it is free to operate its vehicle within the municipality of Deadwood pursuant to a House Bill 1225, effective July 1, 2024, which both defines a multi-person quadricycle and provides regulation of its use. For these reasons Crusin Cycle Co., L.L.C. would request the Commission's blessing to begin business subject to the issuance of any business license, other than a taxicab business license, which may be required by Deadwood Municipal Ordinance Title 5 Business Licenses and Regulations.

For your further understanding of the factual and legal status and history of this matter, there is attached the following Exhibits: A, Emails between Jessica McKeown and Tara Little; B, Crusin Cycle Co., L.L.C.'s letter of May 29, 2024, to Jessica McKeown, Justin Lux, and Quentin Riggins; C, Quentin Riggins letter of June 18, 2024, to Timothy Johns; D, Crusin Cycle

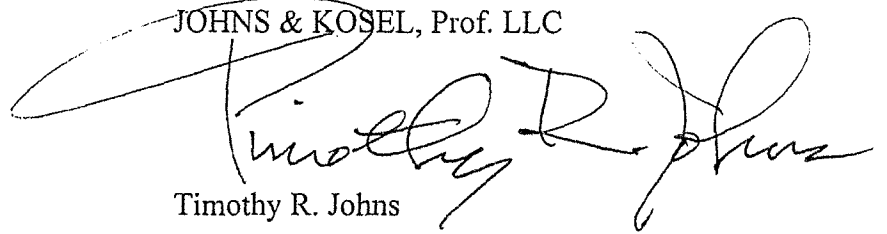
Co., L.L.C.'s letter of June 20, 2024, to Quentin Riggins; and E, a listing of Title 5 Business Licenses and Regulations.

Crusin Cycle Co., L.L.C. looks forward to meeting with you at your regular meeting on July 1, 2024, to answer any of your questions or concerns.

Thanking you, I am,

Sincerely yours,

JOHNS & KOSEL, Prof. LLC

A handwritten signature in black ink, appearing to read "Timothy R. Johns". The signature is written in a cursive style with a large, sweeping initial "T".

Timothy R. Johns

TRJ

Client, Jessica via email to [jessicca@cityofdeadwood.com](mailto:jessicca@cityofdeadwood.com)

## Katie Tieman

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**From:** Tara Little <info@deadwoodpartypedaler.com>  
**Sent:** Wednesday, May 15, 2024 4:27 PM  
**To:** Katie Tieman  
**Subject:** Fwd: Deadwood Party Pedaler Summary

Sent from my iPhone

Begin forwarded message:

**From:** Jessica McKeown <Jessica@cityofdeadwood.com>  
**Date:** May 15, 2024 at 1:25:06 PM MDT  
**To:** Tara Little <info@deadwoodpartypedaler.com>  
**Cc:** "Quentin L. Riggins" <qriggins@gpna.com>, Erin Sanders <esanders@gpna.com>  
**Subject:** FW: Deadwood Party Pedaler Summary

Tara,

We have staffed and reviewed this documentation with all department heads and our city attorney. His opinion still stands as it was given in 2016 and passed on to you earlier this year. A Pedaler license is not allowed under City Ordinances.

The business license applies to stand alone businesses which this is not and therefore, was sent out in error. City Ordinance does not allow permitting for this type of operation. Taxi Cabs, Buses and Livery are all permitted via a different process than the Business License. We will refund the fee to you in next week's check run. I am sure there are additional questions but would encourage Mr. Johns to reach out to our city attorney, Quentin Riggins, included here.

Thank you,  
Jessica

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**From:** Tara Little <info@deadwoodpartypedaler.com>  
**Sent:** Friday, May 10, 2024 10:45 AM  
**To:** Jessica McKeown <Jessica@cityofdeadwood.com>  
**Subject:** Deadwood Party Pedaler Summary

EXHIBIT  
You don't often get email from [info@deadwoodpartypedaler.com](mailto:info@deadwoodpartypedaler.com). [Learn why this is important](#)

Jessicca,

Please see the requested summary included in this email for my business, Deadwood Party Pedaler. It's a bit longer than requested, but I would prefer you and others to have a complete understanding of what it is about and what we are doing.



Should you have any questions, please feel free to contact me. I look forward to hearing from you.

Kind regards,  
Tara J. Little  
605.209.6444

# Deadwood Party Pedaler

Deadwood Party Pedaler will offer an exciting and unique way for tourists and locals alike to experience the historic city of Deadwood, South Dakota. Our Party Pedaler is a custom-built, pedal bike with electric motor assist, multi-passenger bicycle equipped with seating for up to 16 people. Riders pedal together while enjoying a guided tour of Deadwood's most iconic sights, attractions, and nightlife hotspots. It's the perfect way to explore the city while bonding with friends, family, or colleagues in a fun and eco-friendly manner.

**What is a Party Pedaler?** A Party Pedaler is a large, multi-passenger bicycle specially designed for group outings and tours. It features multiple seats arranged around a central bar area where riders can pedal together, creating a shared experience and a sense of camaraderie. The central bar area includes a cooler for beverages and sound system for music. Our Party Pedaler is operated by a trained guide who ensures a smooth and enjoyable ride for all passengers. A Party Pedaler, also known as a party bike or pedal pub, is a unique and fun mode of transportation designed for group outings and tours. Here's how it typically works:

The Party Pedaler is propelled by the riders themselves. Each seat is equipped with seatbelts and pedals, allowing all passengers to contribute to the forward motion of the bike. Pedaling together creates a sense of camaraderie and teamwork among the riders. There is an electric assist motor for when the trained guide is alone. Top speed is 7 miles per hour.

A trained guide typically accompanies the Party Pedaler to lead guided tours of the city or specific attractions. The guide is responsible for steering the bike and ensuring the safety of the passengers. They may also provide commentary and information about the sights and landmarks along the route.

During the tour, the Party Pedaler makes stops at designated locations, such as local businesses, landmarks, or scenic spots. These stops allow riders to disembark, explore, and enjoy refreshments before continuing the tour.

Overall, a Party Pedaler offers a fun and interactive way for groups to explore a city while enjoying each other's company and the local attractions. It's an eco-friendly and memorable experience that appeals to tourists, locals, and celebratory groups alike.

**The History:** The Party Pedaler is believed to have originated in the Netherlands, where it was initially known as a "fietscafé" or "beer bike." Dutch entrepreneurs sought to combine the social aspects of pub culture with the popularity of cycling in urban areas. The first Party Pedalers were simple contraptions consisting of a bar counter mounted on a bicycle frame, with seats for passengers to pedal and socialize.

The concept of the Party Pedaler quickly gained popularity in Europe and spread to other parts of the world, including North America, Australia, and Asia. As it gained traction, manufacturers began refining and adapting the design to meet the specific needs and preferences of different markets. This led to variations in size, shape, and features, with some Party Pedalers designed for sightseeing tours, pub crawls, or special events.

In the early 2000s, Party Pedalers started appearing in major cities across the United States and Canada, offering a unique and interactive way for groups to explore urban areas while enjoying drinks and socializing. The novelty of pedaling a mobile bar through city streets quickly captured the public's imagination and contributed to the Party Pedaler's growing popularity as a recreational activity and tourist attraction.

**Operating hours and tour duration:** Deadwood Party Pedaler operates seven days a week to accommodate a wide range of schedules for tourists and locals. Our guided tours offer an immersive experience of the city, lasting approximately 2 hours and featuring 3-4 stops at local businesses.

- **Peak Season (Weather Permitting):** Monday-Sunday, 10:30am – 10:30pm  
During peak season months, we offer multiple tour slots to accommodate varying preferences and group sizes. Whether you're looking for a morning adventure or an evening outing, Deadwood Party Pedaler is ready to provide a memorable and entertaining experience.
- **Off-Season (Weather Permitting):** Hours may vary depending on weather conditions.  
During the off-season months, particularly when weather conditions may be less favorable, our operating hours will be adjusted accordingly. We prioritize the safety and comfort of our riders and staff, and as such, may limit tour availability or alter tour times to ensure a positive experience.

**Liability waivers and rule agreements:** This is a crucial step in ensuring the safety and well-being of all passengers aboard Deadwood Party Pedaler. Here's how this process typically works:

*Liability Waivers:* Before embarking on a tour, every passenger will be required to complete a liability waiver form. This document acknowledges the inherent risks associated with participating in the activity and releases Deadwood Party Pedaler from any liability for injuries or damages that may occur during the tour. The waiver will also typically include information about the participant's understanding of the rules and regulations, as well as any pre-existing medical conditions that may impact their ability to safely participate.

*Rule Agreement:* In addition to the liability waiver, each passenger will be required to review and agree to a set of rules and guidelines established by Deadwood Party Pedaler. These rules are designed to ensure the safety and enjoyment of all participants and may include regulations regarding alcohol consumption, behavior while aboard the Party Pedaler, and adherence to the guide's instructions. By agreeing to these rules, passengers commit to upholding the standards of conduct outlined by Deadwood Party Pedaler and acknowledge their responsibility for their own actions during the tour.

*Enforcement:* Deadwood Party Pedaler staff will enforce the completion of liability waivers and rule agreements before allowing passengers to board the Party Pedaler. This may involve collecting signed forms prior to the start of the tour or providing electronic forms for completion online prior to arrival. Additionally, guides will review important safety information and rules with passengers before the tour begins to ensure everyone is aware of their responsibilities and expectations while aboard the Party Pedaler.

By implementing liability waivers and rule agreements, Deadwood Party Pedaler demonstrates its commitment to passenger safety and mitigates potential risks associated with the activity. These measures help protect both passengers and the business, creating a safe and enjoyable experience for all participants.

**Safety Protocols:** At Deadwood Party Pedaler, safety is our top priority. We adhere to strict safety protocols to ensure the well-being of our riders and staff. Some of our safety measures include:

1. **Trained Guides:** Our experienced guides undergo thorough training to operate the Party Pedaler safely and effectively. They are knowledgeable about the route, local traffic laws, and emergency procedures.
2. **Seat Belts:** Each seat on the Party Pedaler is equipped with seat belts to keep passengers securely fastened during the ride.
3. **Route Planning:** We carefully plan our routes to minimize interactions with other vehicles. Our guides are skilled at navigating through city streets while keeping riders safe, while obeying local traffic laws.

4. **Maintenance Checks:** The Party Pedaler undergoes regular maintenance checks to ensure that all mechanical components are in good working condition. We conduct pre-ride inspections to identify any issues and address them promptly.
5. **Alcohol Policies:** While we encourage our riders to have fun, we enforce strict policies regarding alcohol consumption on the Party Pedaler. We reserve the right to refuse service to anyone who appears intoxicated.

By prioritizing safety and providing a memorable experience, Deadwood Party Pedaler aims to become the premier choice for group tours and celebrations in Deadwood.

***Benefits to a small community like Deadwood:***

- ***Boosting Local Economy:*** By making stops at local businesses during tours, Deadwood Party Pedaler can drive foot traffic to small shops, restaurants, and attractions. This increased visibility and patronage can help boost sales and support the growth of local businesses, ultimately contributing to the economic vitality of the community.
- ***Promoting Tourism:*** Deadwood Party Pedaler offers a unique and engaging way for tourists to experience the city. As word spreads about this fun activity, it can attract more visitors to Deadwood, increasing tourism revenue and creating opportunities for local businesses to thrive.
- ***Creating Jobs:*** Operating Deadwood Party Pedaler requires a team of guides, maintenance staff, and administrative personnel. By providing employment opportunities, the business contributes to job creation and economic stability within the community.
- ***Enhancing Community Spirit:*** Deadwood Party Pedaler brings people together in a social and festive atmosphere. Whether it's locals celebrating special occasions or tourists exploring the city, the shared experience of riding the Party Pedaler fosters a sense of community and camaraderie among participants.
- ***Promoting Health and Wellness:*** Pedaling the Party Pedaler provides a fun and active way for participants to explore Deadwood. This promotes physical activity and encourages a healthy lifestyle among residents and visitors alike.
- ***Supporting Local Events:*** Deadwood Party Pedaler can collaborate with local organizations and event planners to enhance community events. Whether it's offering themed tours for festivals or providing transportation for group outings, the business can play a valuable role in supporting and enriching community gatherings.

Overall, Deadwood Party Pedaler serves as a unique and positive addition to the community, offering benefits that extend beyond entertainment to encompass economic growth, social cohesion, and overall well-being.

## Katie Tieman

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**From:** Tara Little <info@deadwoodpartypedaler.com>  
**Sent:** Wednesday, May 15, 2024 4:28 PM  
**To:** Katie Tieman  
**Subject:** Fwd: Party pedaler  
**Attachments:** image001.jpg; 04-14-16 P&T Meeting Minutes.pdf

Sent from my iPhone

Begin forwarded message:

**From:** Tara Little-Geving <tara@sacredmtnretreat.org>  
**Date:** May 8, 2024 at 4:49:30 PM MDT  
**To:** Deadwood Party Pedaler <info@deadwoodpartypedaler.com>  
**Subject: Fwd: Party pedaler**

----- Forwarded message -----

**From:** Justin Lux <justin@cityofdeadwood.com>  
**Date:** Tue, Mar 26, 2024 at 4:58 PM  
**Subject:** Party pedaler  
**To:** tara@sacredmtnretreat.org <tara@sacredmtnretreat.org>

Tara,

After our discussion last week, I did some research. I told you it was not expressly prohibited by ordinance but have since found that the City Attorney's opinion is that they are regulated by our taxi ordinance. We currently do not have any open licenses. Attached are the minutes where I found that opinion.

Best,

**Justin S. Lux**

Parking & Transportation Director

City of Deadwood



108 Sherman Street

Deadwood, SD 57732

P: 605-578-2082

**CITY OF DEADWOOD  
PARKING AND TRANSPORTATION COMMITTEE**

**April 14, 2016**

**1. ROLL CALL:**

The City of Deadwood Parking and Transportation Committee met Thursday, April 14, 2016 in the Century Room in City Hall. Kelly Fuller called the meeting to order at 10:00 a.m. Present were **Kelly Fuller, Ken Gienger, Ron Green, Lee Harstad, Bob Nelson, Jr.**

Absent from the meeting were **Kevin Kuchenbecker, Trent Mohr, Bob Nelson, Sr., Bill Burleson.**

**2. APPROVAL OF MINUTES:** March 31, 2016

Minutes of the meeting of Thursday, March 31, 2016, were unanimously approved as written on a motion by Mr. Nelson Jr. and a second by Mr. Green.

**3. ITEMS FROM CITIZENS ON AGENDA:**

**A. John Soriano – Discuss “Party Pedaler” operation in Deadwood.** Mr. Fuller indicated John Soriano was supposed to attend to discuss the party pedaler operation but he did not show up. He indicated he did some research and it’s a giant pedal vehicle and he has a carrier permit so he can sell alcohol. There is a designated driver who steers the bike. Mr. Harstad asked if that is the one with the bar in the back and Mr. Fuller said yes. Mr. Fuller said he spoke with Quentin Riggins, the city attorney, and he felt that by ordinance it falls under a vehicle for hire and would require a taxi permit/license. All of the taxi licenses are maxed out and there aren’t any available. There was discussion about The Bus and the difference, the ordinance defining taxicab, the current cab companies, tour bus ordinance, the possibility that he could request a change in ordinance from the city commission if he really wanted to do it, and if any other possible options. Mr. Green asked if anything needed to be done since there is no request at this time and Mr. Fuller indicated no.

**4. NOTICE TO CONTEST PARKING TICKETS:** None

**5. NEW BUSINESS / UPDATES ON OLD BUSINESS:**

**A. Lower Main Welcome Center – Update.** Mr. Fuller asked for an update and commented on the article in the paper about “costs piling up”. Mr. Green said it is moving along and the retaining wall on the parking lot side is about completed. There is still a short section on the south end near the four-lane highway to do. There is quite a bit of wall done on the east side of the trail from the bridge abutment to the south. The building piers, about 30 of them, need to be poured for the building canopies is progressing. They are getting some fill material from the Oftedal/highway project so they don’t have to bring it from somewhere else, that’s saves us some cost.

Mr. Fuller reported on Split Rock and indicated he was waiting to hear back from them to schedule a kick off meeting. He said they were currently doing Custer State Park and Mr. Nelson Jr had gone down there and looked at that project. Mr. Nelson Jr reported it's quite a bit different than what we want but that the displays were done very professionally and look good; there were quite a few interactive things. Mr. Nelson Jr asked about the timing of the parking lot at the Lower Main project; he was wondering if we could get some of the parking back for a period of time. Mr. Green indicated the schedule needed to be consulted and also said he had a few safety issues he wanted to discuss with the contractor because it's so open around the project. Mr. Fuller indicated there had already been some issues including theft. These issues would be discussed at the next meeting which followed.

- B. Pioneer Way Speed Limit – Update.** Mr. Nelson Jr indicated DOT had initiated a traffic study but did not know when it would start.
  - C. Wall St. Stop Signs (Discussion).** Mr. Fuller indicated there has been quite a bit of discussion regarding the stop signs and the issue of people not seeing them. He indicated he was in Sturgis and there are LED lit stop signs right before Lazelle. He didn't know what power source they used or how much they cost. Mr. Nelson Jr said he had looked at them before. They can be solar and he thought a set up for one costs about \$1,300 or somewhere in there. Mr. Fuller said he thought it should be considered for that location. Mr. Green indicated he wanted HP input since it's on Main Street and doesn't really fit into the historic Main Street. Mr. Fuller indicated most of the accidents there had been people hitting the stop sign stanchion that was in the middle of the road. There was discussion as to whether it needs to be a four-way stop there. Mr. Fuller reiterated he didn't want to put up the stanchion as it's illegal, for one reason, and because of the accidents.
  - D. Bus Parking (Update).** Mr. Fuller indicated he was getting a lot of questions from people about when they needed to be out of there and so it was posted April 11 to give everyone a transition period. The signs were posted and compliance is good but there are no buses. Mr. Nelson Jr indicated he spoke to Jan and April 21 is the first day the buses will start coming in. He asked Mr. Harstad to put a Chamber blast out encouraging people to park at the football field and we will be getting some back up in Sherman Street; maybe promote that spaces can be leased from the parking ramp for \$53/month. Mr. Gienger requested to state in the blast that it is only temporary bus parking until October. He also indicated he had been asked if there was a way to get a discounted fee for parking in the ramp.
  - E. DOT ROW Permits (Update).** Mr. Nelson Jr indicated the permits were done and on the agenda. All they have to do is sign the permits.
- 6. OPEN:** Mr. Gienger wanted to discuss the wrapping of a utility box down by Tin Lizzie. Mr. Harstad confirmed there are two box wraps at Tin Lizzie and Mr. Gienger said they were trying to do more of that in town to make the town look better. He was going to check on funds to get this done. He indicated he would send more info to Mr. Fuller. Mr.

Nelson Jr asked if there were locations chosen and Mr. Gienger indicated they had gone around and taken pictures; Mr. Harstad said they has identified 12 boxes and a couple of trash containers that they would wrap. There's a utility box by the Interpretive Center that Tom has on his list to repair.

Mr. Fuller asked if Mr. Nelson Jr had received any proposals for naming rights. Mr. Nelson Jr indicated he had not seen any but that we gave them quite a bit of time. Mr. Harstad said a couple of people had contacted his office but they were groups that secure naming rights. He said they passed the information along but had not heard anything.

## **7. ADJOURNMENT:**

With no further business for the committee to consider, Mr. Harstad moved to adjourn, seconded by Mr. Nelson Jr and the motion carried unanimously.

The next City of Deadwood Safety Committee meeting will be in the Century Room in City Hall at: **Thursday, April 28, 2016, at 10:00 a.m.**

Respectfully Submitted,  
Rhonda McGrath, Recording Secretary

\*\*\*\* Audio from the meeting is posted on the "S" drive.

**Johns &  
Kosel** Prof.  
LLC  
Attorneys at Law

**Timothy R. Johns**  
tjohns@johnskosellaw.com

**Joseph M. Kosel**  
jtkosel@johnskosellaw.com

May 29, 2024

Ms. Jessica McKeown  
Finance Officer  
102 Sherman Street  
Deadwood, SD 57732  
Via email to [Jessica@cityofdeadwood.com](mailto:Jessica@cityofdeadwood.com)

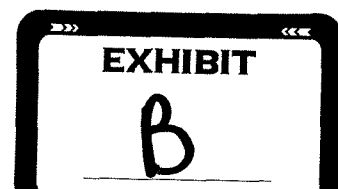
Mr. Justin Lux  
City of Deadwood  
Parking and Transportation Director  
102 Sherman Street  
Deadwood, SD 57732  
Via email to [Justin@cityofdeadwood.com](mailto:Justin@cityofdeadwood.com)

Mr. Quentin L. Riggins  
Deadwood City Attorney  
PO Box 8045  
Rapid City, SD 57709  
Via email to [qriggins@gpna.com](mailto:qriggins@gpna.com) and U.S. Mail

Re: Operation of a Multi-Passenger Quadricycle on public streets by Crusin Cycle Co., L.L.C.,  
DBA Deadwood Party Pedaler

Dear Folks:

This firm represents Crusin Cycle Company, L.L.C., DBA Deadwood Party Pedaler, in reference to Ms. McKeown's email to Tara Little Geving of May 15, 2024, in which Ms. McKeown indicated that "[a] Pedaler license is not allowed under City Ordinances." My client is in agreement that the ordinances do not address Multi-Passenger Quadricycles and their operation on the public streets of Deadwood. That said, we disagree with any conclusion that the operation of the same is precluded by any ordinance or that its operation requires some type of



license. More specifically we disagree with the email of Mr. Justin Lux to Tara of March 26, 2024, “that the City Attorney’s opinion is that they are regulated by our taxi ordinance.”

The taxi ordinance is found in Deadwood City Ordinance Chapter 5.48 entitled “Vehicle for Hire”. Section 5.48.010 A. requires a license to operate a taxicab business. It reads: “No person, firm or corporation shall operate a taxicab business and provide intra-city service with the city of Deadwood without first having obtained from the city commission a license therefore and without having complied with the provisions of this chapter.” Which then leads to the question whether Deadwood Party Pedaler would be operating a Taxicab business.

Under the “Definitions” Section 5.48.0020 of Chapter 5.48, the term ‘Taxicab’ means a “public transportation device used to convey passengers to and from destinations of their choice: such as, but not limited to, vehicles, limousines, rickshaws, and velotaxis (Pedi cabs).” And the term ‘Taxicab business’ means “any person, firm or corporation engaging in the commercial practice of providing public transportation to destinations of choice of passengers.”

The proposed Deadwood Party Pedaler business does not provide public transportation to destinations of choice; rather it follows a set route returning to the point from which it left. Thus, it is not a “taxicab business”. Furthermore, the Party Pedaler vehicle does not meet the definition of what is commonly understood to be a taxicab as it defined as a multi-passenger quadricycle which is a four (4) wheeled vehicle that is a human muscular propelled by the persons riding on it just like a bicycle. As such it also does not qualify as a rickshaw or velotaxi which are three (3) wheeled vehicles which are either self-propelled by a motor or are propelled by someone other than the riders.

Moreover the 2024 South Dakota Legislature passed House Bill 1225 which will be effective July 1, 2024. That act is entitled: “An Act to define a multi-passenger quadricycle and to provide for the regulation of multi-passenger quadricycles.” It amends Title 32, Motor Vehicles, of the South Dakota Codified Laws in the following respects:

Section 1 adds a new provision defining a multi-passenger quadricycle and its components. It reads: “For the purposes of this chapter, the term "multi-passenger quadricycle" means a vehicle equipped with fully operative pedals for propulsion by means of human muscular power exclusively. The vehicle must be: (1) Equipped with at least four wheels and is operated in a manner similar to a bicycle; (2) Equipped with at least five seats for passengers; (3) Designed to be operated by a driver, who may use an assist-motor capable of propelling the vehicle in conjunction with human muscular power; (4) Operated for commercial purposes within a municipality; (5) Equipped with a steering wheel that gives the driver exclusive control of the direction of the vehicle; (6) Equipped with at least one tail lamp in accordance with § 32-17-12; (7) Equipped with at least one stop lamp in accordance with § 32-17-8.1; (8) Equipped with at least two headlamps with one on each side of the front of the vehicle; and (9) Equipped with a rear vision mirror in accordance with § 32-15-8.”

Section 2 adds a new provision that provides: “Unless otherwise allowed by a municipality, a multi-passenger quadricycle may not be operated on any bicycle path or multi-use path.”

Section 3 adds a new provision that provides: “An owner of a multi-passenger quadricycle must maintain financial responsibility as required by subdivisions 32-35-113(1) and (4).”

Section 5 amends Chapter 32-3 to exempt multi-passenger quadricycles from the chapter’s title registration, liens and transfer requirements.

Section 6. amends Chapter 32-5 to exempt multi-passenger quadricycles from annual license registration and license plate requirements.

And Section 12 adds a new section that provides: “A driver of a multi-passenger quadricycle, as defined in section 1 of this Act, is subject to a violation of any of the provisions of this chapter, but a passenger of a multi-passenger quadricycle may not be charged with a violation of this chapter.”

Sections 4, 7, 8 and 9 amend various statutes to exempt multi-passenger quadricycles from the definition of the term “Motor Vehicle” as the term is defined in each statute in various contexts. The various statutes also make it clear that because motor vehicles are motorized, they are “self-propelled”. That is, they are “propelled by power other than muscular power” which by definition excludes multi-passenger quadricycles.

Section 10 amends §32-20-1 to exempt multi-passenger vehicles from the definition of “Off road vehicle”.

And finally, Section 11 amends the seat belt requirement found in §32-38-2 to exempt multi-passenger quadricycles. It also makes clear for purposes of that chapter that “a passenger vehicle is any self-propelled vehicle intended primarily for use and operation on a public highway including any passenger car, station wagon, van, taxicab, emergency vehicle motor home, truck, or pickup.”

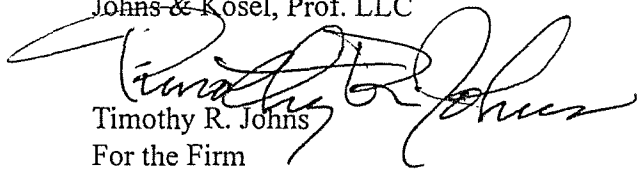
In summary, since South Dakota law allows for and governs the use of multi-passenger quadricycles under the provisions of House Bill 1225, and since Deadwood Party Pedaler’s proposed use of its vehicle does not qualify as a taxi-cab business under the terms of Deadwood City Ordinance Chapter 5.48, Deadwood Party Pedaler submits that there are no ordinances in the City of Deadwood requiring a license to operate its business on the streets of Deadwood. Therefore, without any licensing requirement or other restrictions on the use of its multi-passenger quadricycle, Deadwood Party Pedaler should currently be clear to begin operation of its business at any time.

Please advise if the City does not agree with our conclusion and why.

Thanking you, I am,

Sincerely yours,

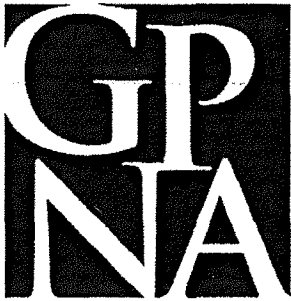
Johns & Kosel, Prof. LLC

A handwritten signature in black ink, appearing to read "Timothy R. Johns", written in a cursive style.

Timothy R. Johns  
For the Firm

TRJ  
Client via email attachment





506 Sixth Street  
Post Office Box 8045  
Rapid City, South Dakota 57709  
Main: (605) 342-1078  
Fax: (605) 342-9503

www.gpna.com

June 18, 2024

Quentin L. Riggins  
Email: qriggins@gpna.com  
Direct Dial: (605) 719-3436

Timothy R. Johns  
Johns & Kosel, Prof. LLC  
203 W Main St.  
Lead, SD 57754  
Via email: jkosel@johnskosellaw.com

Re: City of Deadwood GPNA File No. 07857.0003

Dear Mr. Johns:

When addressing the issue of a non-motorized party peddler in the past the opinion I provided the Commission was that the vehicle itself meets the definition of a taxicab under current Deadwood municipal ordinances and as such would require a taxicab license in order to operate. My opinion in this regard has not changed.

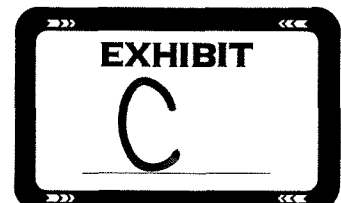
Taxicabs and taxicab businesses are defined by Deadwood Municipal Ordinance 5.48.020. Taxicab is defined as "a public transportation device used to convey passengers to and from destinations of their choice **such as but not limited to** vehicles limousines rickshaws and velotaxis (Pedicabs)." The use of the term including but not limited to together with rickshaws and Velo taxis which are vehicles that are non-motorized but used to take passengers to and from destinations of their choice leads to my conclusion that a multi-passenger quadricycle vehicle which is used to convey passengers to and from destinations of their choice would fall within the definition of a taxicab under Deadwood Municipal Ordinance 5.48.020.

Because the multi-passenger quadricycle at issue is considered a taxicab it would require a license pursuant to Deadwood Municipal Ordinance 5.48.010. That ordinance requires a taxicab license in order to operate within the City of Deadwood. Deadwood Municipal Ordinance 5.48.040 provides that there will be a maximum of five total taxicab licenses issued within the city of Deadwood. Presently there are no taxicab licenses available.

Sincerely,

Quentin L. Riggins

QLR:ejs



Johns &  
Kosel <sup>Prof.  
L.L.C.</sup>  
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June 20, 2024

Mr. Quentin L. Riggins  
Deadwood City Attorney  
PO Box 8045  
Rapid City, SD 57709  
Via email only to [qriggins@gpna.com](mailto:qriggins@gpna.com)

Re: Operation of a Multi-Passenger Quadricycle on public streets by Crusin Cycle Co., L.L.C.,  
DBA Deadwood Party Pedaler

Dear Mr. Riggins:

I acknowledge receipt of your letter of June 18, 2024. While my client understands the position you are taking on the question of whether a multi-person quadricycle is considered a taxicab under Deadwood Municipal Ordinance 5:48:20 requiring a taxicab license, we do not agree with your conclusions that it the qualifies as a “taxicab” or that Crusin Cycle Co., L.L.C. plans on operating a “taxicab business”.

As you cited in your letter, the term “Taxicab”, is defined in the ordinance as a “public transportation device used to convey passengers to and from **destinations of their choice**: such as, but not limited to, vehicles, limousines, rickshaws, and velotaxis (Pedi cabs).” (Emphasis added). And as we referenced in our letter of May 29, 2024, the term ‘Taxicab business’ means “any person, firm or corporation engaging in the commercial practice of providing public transportation **to destinations of choice of passengers.**” (Emphasis added).

You concluded in your letter that the Party Pedaler falls under the definition of a taxicab based on the premise that it would be used to transport its passengers to destinations of their choice. This premise is incorrect. To transport passengers to destinations of their choice means that the vehicle will pick up passengers at their beck and call at various and sundry addresses and drop them off at other sundry address as designated by the passengers. While the Deadwood Party Pedaler would be engaged in the commercial business of providing transportation for its passengers, it will not be transporting them to destinations of **their choice**. The business plan submitted to the City proposes that the business would have a designated set routes and would only pick patrons up at one of the several different designated stops and would only drop them



off at one of the same designated stops. For that reason, the vehicle does not meet the definition of a “taxicab” under the ordinance and also does not meet the definition of a “taxicab business” as used in the ordinance.

Furthermore, the multi-party quadricycle does <sup>not</sup> operate in the same manner or can otherwise be considered analogous to a rickshaw which is a two wheeled cart on which passengers are seated but which is pulled by one or two people. Nor is it analogous to a velotaxi which is a tricycle with separate seating for passengers which is propelled solely by the driver. In the case of multi-passenger quadricycle it is designed to be propelled by the passengers.

Finally, in our May 29, 2024 letter we referenced South Dakota House Bill 1225 which is effective July 1, 2024. This act defines a multi-passenger quadricycle and also provides for their regulation. In Section 1 it defines a "multi-passenger quadricycle" as “a vehicle equipped with fully operative pedals for propulsion by means of human muscular power exclusively.” And then provides, in part, that:

The vehicle must be: (1) Equipped with at least four wheels and is operated in a manner similar to a bicycle; (2) Equipped with at least five seats for passengers; (3) Designed to be operated by a driver, who may use an assist-motor capable of propelling the vehicle in conjunction with human muscular power; (4) Operated for commercial purposes within a municipality.....

In the case of In Re: Appeal from Decision of Yankton County Commission, 2003 SD 109, ¶15, 670 N.W. 2d 34, the Court cited from Rantapaa v. Black Hills Chairlift Co., 2001 SD 111, P23, 633 N.W.2d 196, 203, discussed the three ways that a state statute may conflict with or otherwise preempt a local ordinance. It said:

There are several ways in which a local ordinance may conflict with state law. In that event, state law preempts or abrogates the conflicting local law. First, an ordinance may prohibit an act which is forbidden by state law, and, in that event, the ordinance is void to the extent it duplicates state law. Second, a conflict may exist between state law and an ordinance because one prohibits what the other allows. And, third, state law may occupy a particular field to the exclusion of all local regulation.

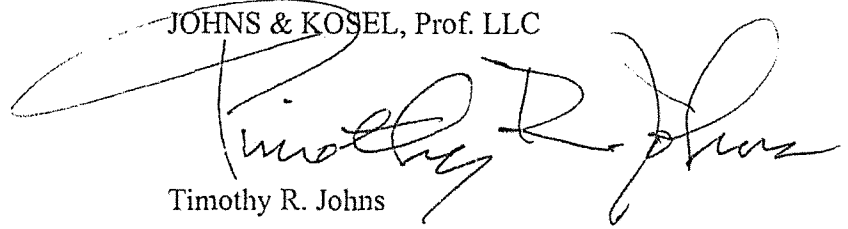
By declaring a multiple passenger quadricycle as a taxicab and then placing on it all of the requirements found in Deadwood Municipal Ordinance Chapter 5:48 “Vehicles for Hire”, the City is causing to be placed restrictions on the right of a person to operate a multi-passenger quadricycle to operate it within a municipality, many of which the multi-passenger cannot meet. This creates an inherent conflict with the provisions of House Bill 1225 including Section 1 which clearly allows that it may be operated for commercial purposes within a municipality and Section 6 which amends SDCL Chapter 32-5 that exempts multi-passenger quadricycles from annual license registration and license plate requirements.

Crusin Cycle Co. has made every effort to operate a new business in the City of Deadwood and respect its ordinances. For that reason, it has not begun operating on the streets of Deadwood and will not for fear that it will be charged criminally for operating a taxicab business without a license. That said, it appears that it needs to bring this issue before the Commission at its next meeting.

Thanking you, I am,

Sincerely yours,

JOHNS & KOSEL, Prof. LLC

A handwritten signature in black ink, appearing to read "Timothy R. Johns". The signature is written in a cursive style with a large, sweeping initial "T".

Timothy R. Johns

TRJ

Client, Jessica Via email to [Jessica@cityofdeadwood.com](mailto:Jessica@cityofdeadwood.com), [Justin@cityofdeadwood.com](mailto:Justin@cityofdeadwood.com)

**TITLE 5 BUSINESS LICENSES AND REGULATIONS**

**CHAPTER 5.02 BUSINESS LICENSES**

**CHAPTER 5.04 ALCOHOLIC BEVERAGES**

**CHAPTER 5.06 MOBILE FOOD AND BEVERAGE VENDING PERMIT**

**CHAPTER 5.08 BINGO/RAFFLE**

**CHAPTER 5.12 CONTRACTORS**

**CHAPTER 5.16 (RESERVED)**

**CHAPTER 5.20 HORSE-DRAWN VEHICLES**

**CHAPTER 5.24 PAWNBROKERS AND SECONDHAND DEALERS**

**CHAPTER 5.28 COMMERCE WITHIN THE CITY OF DEADWOOD**

**CHAPTER 5.32 (RESERVED)**

**CHAPTER 5.36 (RESERVED)**

**CHAPTER 5.40 TOURIST CONVEYANCES**

**CHAPTER 5.44 TROLLEYS**

**CHAPTER 5.48 VEHICLES FOR HIRE**

**CHAPTER 5.52 MISCELLANEOUS BUSINESS LICENSES AND REGULATIONS**

**Chapter 5.56 MEDICAL CANNABIS ESTABLISHMENTS**

HISTORY

*Amended by Ord. 1353 on 5/25/2023*

**CHAPTER 5.02 BUSINESS LICENSES**

**5.02.010 Purpose**

**5.02.020 Definitions**

**5.02.030 License Required**

**5.02.040 Application; Issuance Of Business License**

**5.02.050 Fee/Term**

**5.02.060 Denial/Revocation**

**5.02.070 Denial; Applicant Right To Appeal**

**5.02.080 Posting; Inspection**

**5.02.090 Change Of Location**

**5.02.100 Transfer**

**5.02.110 Prohibited Business Locations**

**5.02.120 Exemptions**

**5.02.130 Multiple Businesses; Same Location**

**5.02.140 Same Business; Multiple Locations**

**5.02.150 Penalty**

**5.02.010 Purpose**

The purpose of the business license is to provide an additional protection to the citizens and visitors of the City of Deadwood from fraud and misrepresentation; to ensure compliance with city ordinances; to administer proper land use, quality development and zoning in accordance with the Comprehensive Plan and to provide a database to define and monitor the progress of the local economy.

(Ord. 1311, 2020)

**5.02.020 Definitions**

As used in this chapter:

"Business" means any activity, trade, calling, profession, or occupation, whether sole proprietorship, partnership, corporation, limited liability company or other recognized entity, which regularly provides delivery of products and/or services from an address or other location(s) within the corporate limits of

