



To: Edward J. Hudak, Chief of Police
Eduardo Santamaria, Director of Public Works Dept.

From: Miriam Soler Ramos, City Attorney *MSR*
Israel U. Reyes and Christopher Reyes, Police Legal Advisors

RE: Legal Opinion Regarding Operation of Bicycles on Florida Roads, Sidewalks Areas, and
Bicycle Paths

Date: August 31, 2018

In anticipation of rolling out a station-less bike share program, guidance has been requested regarding where a bicycle may be operated.

I. QUESTION PRESENTED

Can a person operate a bicycle on a Florida road, sidewalk, sidewalk area, or bicycle path?

II. SHORT ANSWER

A bicycle is (1) allowed to be operated on a Florida road unless a bicycle lane is available, (2) is allowed to be operated on a bicycle path, and (3) is generally allowed to be operated on a sidewalk or a sidewalk area, but a municipality may prohibit or restrict their use on a sidewalk or sidewalk area via local ordinance.

III. LEGAL ANALYSIS AND ANSWER TO THE QUESTION PRESENTED

a. Definition of Bicycle

The definition of "bicycle" can be found under the definition of "bicycle" in Florida Statutes Section 316.003(4) (2018):

Every vehicle propelled solely by human power, and every motorized bicycle^[1] propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.

b. Operation of a Bicycle on a Florida Road Is Allowed.

Florida Statutes Section 316.2065(1) states that

Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.

As provided above, a bicycle that is propelled by human power; therefore, unless an exception applies, a bicycle is treated as any other vehicle under Chapter 316. Specifically, Section 316.2065(5)(a) allows a person to operate a bicycle on a roadway if a bicycle lane is unavailable:

(5)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride in the lane marked for bicycle use or, if no lane is marked for bicycle use, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another bicycle or vehicle proceeding in the same direction.
2. When preparing for a left turn at an intersection or into a private road or driveway.
3. When reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right-hand curb or edge or within a

¹ A “motorized bicycle” is a bicycle, and the only legal distinction between a motorized bicycle and a bicycle is that a “person under the age of 16 may not operate or ride upon a motorized bicycle.” § 316.003(4), Fla. Stat. (2018); *Inman v. State*, 916 So. 2d 59, 60 (Fla. 2d DCA 2005) (Motorized bicycles are defined within the definition of bicycle in Section 316.003(4)); *State v. Manchado*, 968 So. 2d 115, 116 (Fla. 4th DCA 2007) (A motorized bicycle by definition is not capable of exceeding a speed of twenty miles per hour). Therefore, other than the age restriction, this opinion regarding bicycles also applies to motorized bicycles.

bicycle lane. For the purposes of this subsection, a “substandard-width lane” is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

c. Operation of a Bicycle on Sidewalks, Sidewalk Areas, and Bicycle Paths Is Generally Allowed but May Be Regulated by Local Ordinances.

Florida Statutes Section 316.1995 allows a person to drive a vehicle propelled by human power upon a bicycle path, sidewalk, or sidewalk area. However, this general allowance does not preempt a municipality from regulating the operation of a bicycle:

(1) The provisions of this chapter shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from: [. . .] (h) Regulating the operation of bicycles.

[and]

(7)(a) A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles^[2], golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

§ 316.008, Fla. Stat. Therefore, although a bicycle is generally allowed to be operated on a sidewalk or sidewalk area, a municipality may regulate their use on a sidewalk or sidewalk area.

See generally Fla. Att'y Gen. Op. 94-5 (1994).

d. Operation of a Motorized Bicycle on a Florida Road Does Not Require a Driver’s License

Florida Statutes Section 322.03(1) requires a driver to have a license to operate a “motor vehicle”: “a person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver license issued under this chapter.” However, a bicycle is not a “motor vehicle” for the purposes of Florida Statutes Chapter 322: “any self-propelled vehicle, including

² A motorized bicycle is a vehicle under Florida Statutes Section 316.003(99): “Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.”

a motor vehicle combination, not operated upon rails or guideway, **excluding vehicles moved solely by human power**, motorized wheelchairs, and **motorized bicycles as defined in s. 316.003.**” (Emphasis added.) Therefore, because a bicycle is moved solely by human power, it is excluded from the classification of “motor vehicles,” and a driver’s license is not required to operate one.

IV. CONCLUSION

Under Chapter 316, a bicycle may be operated on a Florida road because the operator of a bicycle has the same rights and duties applicable to other vehicles under Chapter 316, unless excepted; this right includes operating a bicycle on a Florida road if a bicycle lane is not available. Furthermore, under Chapter 316, a bicycle is allowed to be operated on a bicycle lane and generally allowed to be operated on a sidewalk and sidewalk area, but a municipality has the power to regulate the use of bicycles and could prohibit or limit their use on a sidewalk or sidewalk area via local ordinance. Finally, under Chapter 322, a driver’s license is not required to operate a bicycle because it is not a “motor vehicle.”

From: [Ramos, Miriam](#)
To: [Paulk, Enga](#)
Subject: FW: Opinion regarding operation of bicycles on
Date: Friday, August 31, 2018 4:04:57 PM
Attachments: [opinion - bikes.docx.pdf](#)
[image002.png](#)
[image004.png](#)

Enga, please publish.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

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City, County, and Local Government Law
City of Coral Gables*

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From: Ramos, Miriam
Sent: Friday, August 31, 2018 4:04 PM
To: Hudak, Edward <ehudak@coralgables.com>; Santamaria, Eduardo <esantamaria@coralgables.com>
Cc: Fernandez, Frank <ffernandez@coralgables.com>; Iglesias, Peter <piglesias@coralgables.com>; Keller, Jessica <jkeller@coralgables.com>; Levi, Naomi <nlevi-garcia@coralgables.com>
Subject: Opinion regarding operation of bicycles on

Chief and Ed,

In anticipation of the upcoming station-less bike share program, attached

please find our legal opinion regarding the same. It is my suggestion that we move forward with an Ordinance that does not allow for the bicycles to be ridden on sidewalks. I have already asked Stephanie to begin drafting the Ordinance for first reading September 11th but want to make sure you all agree.

If you have any questions, please let me know.

Sincerely,

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

*Board Certified by the Florida Bar in
City, County, and Local Government Law*

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CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

**OPINION REGARDING OPERATION OF BICYCLES
ON FLORIDA ROADS, SIDEWALKS, SIDEWALK AREAS, AND BICYCLE PATHS**

To: Edward J. Hudak, Chief of Police
Eduardo Santamaria, Director of Public Works Dept.

From: Miriam Soler Ramos, City Attorney
Israel U. Reyes and Christopher Reyes, Police Legal Advisors

C: Frank Fernandez, Assistant City Manager
Peter Iglesias, Assistant City Manager
Jessica Keller, Assistant Director of Public Works Dept.
Naomi Levi-Garcia, Government Affairs Manager

Date: August 31, 2018

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