

COUNCIL OF THE COUNTY OF MAUI
HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE

December 11, 2018

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on November 19, 2018, makes reference to County Communication 18-375, from the Director of Transportation, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 11, MAUI COUNTY CODE, RELATING TO PUBLIC TRANSIT." The purpose of the proposed bill is to amend Title 11, Maui County Code ("MCC"), to update current provisions and establish new prohibitions and penalties, relating to public transit.

The Deputy Director of Transportation noted the County's public transit system has expanded greatly since Title 11, MCC, relating to public transit, was adopted in 2003. He said the expansion of the public transit system has made it difficult to ensure the health and safety of public transit riders within the current provisions of Title 11.

The Deputy Director of Transportation also noted the County's public transit shelters and stops are frequently used for lodging and storage by the County's vagrant population, which has negatively affected the health and safety of public transit ridership.

Your Committee noted the proposed bill would help improve the health and safety of ridership by establishing prohibitions and penalties for unlawful dwelling, storage, or dumping at public transit facilities.

Your Committee notes the Department of Transportation has had collaborative discussions with the Department of Housing and Human Concerns. These departments are working closely with the County's

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Homeless Division and other government and private entities to address the issue of unlawful dwelling at public transit shelters and stops.

Your Committee voted 5-0 to recommend passage of the proposed bill on first reading and filing of the communication. Committee Chair Crivello, Vice-Chair Carroll, and members Guzman, King, and White voted "aye." Committee members Atay and Hokama were excused.

Your Housing, Human Services, and Transportation Committee **RECOMMENDS** the following:

1. That Bill _____ (2018), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 11, MAUI COUNTY CODE, RELATING TO PUBLIC TRANSIT," be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**; and
2. That County Communication 18-375 be **FILED**.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



STACY CRIVELLO, Chair

hht:cr:18055aa:ssm

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE AMENDING TITLE 11,
MAUI COUNTY CODE, RELATING TO PUBLIC TRANSIT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 11.01, Maui County Code, is amended to read as follows:

“11.01.010 Purpose and intent. The purpose and intent of this title is to regulate the public transit system for the County of Maui to provide reliable transportation services while protecting the health, safety, and welfare of the people[.], to prevent disturbances to nearby residences, and make County bus stops and transit facilities a safer environment for all County bus system users.

The display of advertising on interior or exterior of County buses, at all County bus stops, transit facilities, or on County bus passes is intended solely to generate revenue incidental to the operation of the public transit system; it is not the County's intent to allow or cause any of its buses or bus passes to become a public forum for the dissemination, debate, and/or discussion of public issues.

11.01.020 Definitions. For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, the following words and terms shall be defined as follows:

"Abandoned personal property" means personal property in which the owner has surrendered all claim of right, title, interest, and possession with the intent not to reclaim it. It shall be presumed that personal property left unattended at any County bus stop, transit facility, or transit facility amenity is abandoned. Personal property left on a bus will not be presumed abandoned and may be reclaimed by contacting the department.

"ADA" means the Americans with Disabilities Act of 1990, as amended.

"ADA eligible individual" means a person with a disability who qualifies for ADA paratransit service as further set forth in section 11.05.030 of this title.

"ADA paratransit service" means a public transit service which is part of the County bus system and services persons who are paratransit eligible according to 49 CFR section 37.123, as amended, or persons certified as eligible by the department.

"ADA paratransit service personnel" means personnel employed by a bus contractor exclusively or predominantly for the operation and maintenance of the ADA paratransit service.

"ADA paratransit service vehicle" means a vehicle owned or contracted by the County and used in the ADA paratransit service.

"Adult" means any person age eighteen years and over who does not qualify as a "student".

"Advertising" means signage, stickers, posters, flyers, brochures, banners, videos, displays, or any other means of promotion of any product or service.

"Bus" means a motor vehicle operated as part of the transit system and designed [for carrying more than eight] to carry passengers [and used for the transportation of persons. The term shall not include a vehicle designed for operation on a fixed rail guideway.], and includes ADA paratransit service vehicles.

"Bus contractor" means a private, for-profit, or non-profit entity, with which the County has contracted [with] in accordance with this title to manage, operate, and maintain the County bus system [and special transit service].

"Bus pass" means a card, ticket, or similar document distributed, as approved by the department, that entitles the holder to unlimited rides on the County bus system for the duration specified on the pass.

"Bus personnel" means personnel employed by a bus contractor exclusively or predominately for the operation and maintenance of the County bus system.

"CFR" means Code of Federal Regulations.

"Child" means any person under the age of six who does not qualify as an "infant".

"Commuter bus service" means the limited scheduled bus service of extended length, with limited stops, using vehicles owned or contracted by the County.

"Companion" means a person, other than the personal care attendant, who accompanies an ADA eligible individual.

"Copyright infringement" means the use of works protected by copyright law without permission, infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works.

"County bus stop" means an area, designated by the department, and identified by signage on a County bus route, where County [transit buses and special transit service] bus system

vehicles stop for the boarding and unloading of passengers. This area includes the entire width of the sidewalk and extends forty feet before a bus stop sign or bus stop route sign, or, for bus stops furnished with a transit facility or transit facility amenities, the footprint of the transit facility or amenity and the entire width of the sidewalk, and which extends ten feet in length before and ten feet in length after the footprint of the transit facility or transit facility amenity. The footprint is defined by vertical planes, perpendicular to the ground, extending down from the outermost edges of the transit facility or transit facility amenity overhang or roof.

"County bus system" means the [public mass transit] fixed route bus service, commuter bus service, and ADA paratransit service that receives moneys from the County by contract or grant agreement. The term includes [regularly scheduled public mass transit service provided through the use of buses operating over fixed routes, or periodic or specially scheduled public mass transit service provided through the use of buses for special events.] all County bus stops, all transit facilities, and all transit facility amenities.

"County transit bus" means a bus, other than [a special transit] an ADA paratransit service vehicle, owned or contracted by the County or used in the County bus system.

"Department" means the department of transportation of the County of Maui.

"Director" means the director of the department.

"Disability" shall have the same meaning ascribed to that term in 49 CFR section 37.3, as amended.

"Electronic device" includes, but is not limited to, televisions, radios, recording devices, portable stereos, electronic games, telephones, cellular phones, walkie-talkies, and pagers.

"False or misleading" means untruthful, inaccurate, misleading, or deceptive [commercial] speech.

"Fixed route bus service" means the regularly scheduled public mass transit service, provided by the County through the use of County transit buses.

["Individual with a disability" shall have the same meaning ascribed to that term in 49 CFR section 37.3, as amended.]

"Infant" means a person under two years of age, traveling with an adult.

"Libelous speech" means any written matter, pictures or depiction injurious to the reputation of another.

"Medicare cardholder" means any person to whom a medicare card has been issued, pursuant to Title II or Title XVIII of the Social Security Act 42, U.S.C. 401, et seq. 42 U.S.C. 1395, et seq.

"Minors" means any person less than eighteen years old.

"Mobility device" means a mobility aid belonging to any class of multi-wheeled devices and designed for and used by persons with a disability, whether the device is operated manually or by a power supply.

["Monthly bus pass" means a valid pass for unlimited riding of the County transit bus for a one-month period.]

"Obscene" or "illicit" means any material [as] described in section 712-1211(1), Hawaii Revised Statutes.

"Park-and-ride facilities" means locations where transit system customers may park personal vehicles and ride on the County bus system. Such facilities may or may not be managed by the department.

["Park-and-ride facilities established by the department" means park-and-ride facilities under the management of the department.

"Park-and-ride facilities designated by the department" means park-and-ride facilities which, although served by the County bus system, are not under the management of the department.]

"Person with a disability" means a person with [an identification card issued under] a disability who qualifies for discounted fixed route service as set forth in section 11.03.050 of this [code.] title.

"Personal care attendant" means a person [who is] who's assistance is required by [the] an ADA eligible individual [for travel.] using the transit system.

"Political or campaign speech" means any material that (1) refers to or supports a specific ballot question, initiative, petition, or referendum, or (2) refers to any candidate for public office, or (3) bears the name, signature, picture, or likeness of any publicly elected official or of any candidate for elective office.

"Pornographic" has the same meaning as "pornographic" as defined in section 712-1210, Hawaii Revised Statutes.

"Profanity" means vulgar, irreverent, or coarse language.

"Reduced cash fare" means a special program providing particular passengers with a discounted fare option for travel on fixed route bus service, during off-peak hours.

"Senior citizen" means [a person age 55 years or older.] a person who qualifies for a discounted monthly pass at the rate set forth in the annual County budget ordinance.

"Service animal" shall have the same meaning as ascribed to that term in 49 CFR section 37.3, as amended.

"Shopping cart" means a four-wheeled cart, with a basket or container space, to hold personal property or other articles typically provided by a merchant or retail store for their customer's use in collecting purchases. Removal of, or lack of merchant's identification on a shopping cart does not alter a shopping cart's

identity as a shopping cart. A small shopping device capable of being carried on a bus by a passenger is considered to be personal property and not a shopping cart.

"Single cash fare" means the required payment for a ride on the County bus system.

"Smoke" or "smoking" means inhaling or exhaling upon, burning, or carrying any lit cigarette, cigar, or pipe or the use of an electronic smoking device.

["Special transit service" means a public transit service that supplements the County bus system to serve persons who are paratransit eligible according to 49 CFR section 37.123, as amended, or persons certified as eligible by the department.

"Special transit service personnel" means personnel employed by a bus contractor exclusively or predominantly for the operation and maintenance of the special transit service.

"Special transit service vehicle" means a vehicle owned by the County and used in the special transit service.

"Standard advertising space" means a space 10.50 inches high, of which a quarter inch on the top and bottom would be hidden, and 24 inches long.]

"Student" means any of the following: a person age [6] six through [17,] seventeen, subject to the presentation of a valid identification card establishing the age of the person; a person enrolled in high school [up to 19 years of age] with a valid high school identification card establishing [the age of the person and] the person's enrollment in high school; or a person enrolled in college, university, or vocational school [up to 24 years of age] with a valid college, university, or vocational school identification card establishing [the age of the person and] the person's current enrollment in college, university, or vocational school.

"Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.

"Transit facility" includes, but is not limited to, transit centers, transit amenities, bus stops on public or private property, park and ride facilities, associated parking lots, and land on property utilized, owned, operated, contracted, or controlled by the department or its contracted service providers for operating of the County bus system.

"Transit facility amenities" include, but are not limited to, seating, benches, bus shelters including side frames, screens with artworks (where applicable), trash and recyclable receptacles, bike racks, bus stop signs and posts, bus schedules, bus schedule display devices, photovoltaic equipment including photovoltaic lighting, panels, controllers, battery packs, and battery storage devices, and other amenities as determined by the director.

"Transit system" includes the department and the entity or entities that operate the County bus system [and special transit service]."

SECTION 2. Section 11.02.010, Maui County Code, is amended to read as

follows:

"11.02.010 County bus system. A. The department shall be responsible for the operation and maintenance of the County bus system in accordance with the charter, this chapter, and applicable statutes and ordinances.

B. The department shall establish the routes, schedules, and levels of service of the County bus system. The routes, schedules, and levels of service shall be in conformance with the short-range transit plan and any update.

C. All County bus stops, transit facilities, and transit facility amenities shall be closed for use and not occupied by any person from the hours of 12:00 a.m. to 4:00 a.m., unless otherwise authorized by the director.

[C.]D. The department may establish or designate park-and-ride facilities to be served by the County bus system. Park-and-ride facilities established or designated by the department shall be:

1. In conformance with all applicable transit plans of the department and any updates thereto[; and].

2. In compliance with general plan [and], zoning ordinances and maps, the building code and fire code, and other applicable laws or ordinances concerning land use, planning, and building construction."

SECTION 3. Chapter 11.02, Maui County Code, is amended by adding a

new section to be appropriately designated and to read as follows:

"11.02.065 Advertising at County bus stops, transit facilities, and transit facility amenities. A. The department, through the department of finance, may rent or contract for advertisement displays at County bus stops, transit facilities, and transit facility amenities.

B. Advertising prohibited by section 11.02.040 shall also be prohibited at all County bus stops, transit facilities, or transit facility amenities.

C. Rates for renting or letting of advertising spaces at County bus stops, transit facilities, and transit facility amenities shall be set forth in the annual budget. The department is authorized to enter into contracts for advertising with private

vendors provided that all procurement laws are met and in accordance with the following:

1. The County's share of the revenues derived from advertisements at County bus stops, transit facilities, and transit amenities shall be placed into the County highway fund.

2. An annual report of revenues received shall be transmitted to the county council during the annual budget process."

SECTION 4. Section 11.03.020, Maui County Code, is amended to read as follows:

"11.03.020 Boarding instructions. To board a County transit bus, a passenger shall deposit the exact fare in cash into the fare box of the bus, provided that if a passenger overpays the fare, the passenger shall not receive any refund for the overpayment. If the department establishes a bus token, coupon, or approved card program, a passenger may substitute the appropriate token, coupon, or approved card in lieu of cash to pay the fare. Passengers must present a valid identification card and/or bus pass if not paying cash. Passengers may be requested to remove their valid identification card and/or bus pass from a holder or wallet for inspection."

SECTION 5. Section 11.03.040, Maui County Code, is amended to read as follows:

"11.03.040 Senior citizens. A. There is established a senior citizen monthly bus pass fare for [a single route or all County routes as] fixed route bus service at the rate set forth in the annual County budget ordinance.

B. A senior citizen who has been issued a senior citizen monthly bus pass shall be entitled to an unlimited number of rides for [a single route or all County routes,] the fixed route bus service, as applicable, on the regular County transit bus [service] during the month the pass is valid."

SECTION 6. Chapter 11.04, Maui County Code, is amended to read as

follows:

“11.04.010 Prohibited activities on the County [transit buses and special transit service vehicles—Authority of drivers—Violations.] bus system and park and ride facilities - authority of drivers - violations - penalties. A. The following activities or conduct shall be prohibited on [a] the County [transit] bus system [or special transit service vehicle:] and the park and ride facilities:

1. No person shall be present at or in any County bus stop, transit facilities, or transit facility amenities between the hours of 12:00 a.m. to 4:00 a.m., unless otherwise authorized by the director.

[1.]2. [Consuming] No person shall consume any form of food or beverage, including alcohol, or [carrying or possessing] carry or possess any food or beverage in a container other than a container that is tightly closed, covered, or packaged so as to minimize the possibility of accidental spillage when the container is shaken or dropped; provided that this paragraph shall not be construed to prohibit the carrying or possession of groceries in a suitable bag or other container[;].

[2.]3. [Using or playing] No person shall use or play any electronic device, musical instrument, or other sound-producing or sound-emitting device, unless the device is connected to a headphone or earphone that limits the sound produced or emitted to the individual user. This paragraph shall not be construed to prohibit the driver of the bus or vehicle from using or playing such devices for official business or to prohibit passengers from using telephones, cell phones, other electronic media, or pagers for communication purposes, provided said devices are placed on silent or vibrate modes[;].

[3.]4. [Carrying or possessing] No person shall carry or possess any live animals, except a service animal properly harnessed and accompanied by [an individual] a person with a disability [and], small animals properly kept in an enclosed container; provided that this paragraph shall not be construed as prohibiting a police officer from carrying or possessing an animal used for law enforcement purposes[;].

[4.]5. [Discarding, disposing of, placing, throwing, or dropping] No person shall discard, dispose of, place, throw, or drop any litter, as defined in section 339-1 [of the], Hawaii Revised Statutes, as amended, in the bus [or vehicle], or at

County bus stops, transit facilities, and transit facility amenities, except into receptacles designated for that purpose[;].

[5.]6. [Failing or refusing] No person shall fail or refuse to vacate seats designated as priority seating for elderly or disabled passengers or the fold-down or other movable seat area designated for wheelchair securement, when requested to do so by the driver, any other agent of the transit system, or a police officer[;].

[6.]7. [Knowingly failing or refusing] No person shall knowingly fail or refuse to pay the applicable fare for transportation on the bus or vehicle, in cash[,], or through the use of properly issued tokens, coupons, or approved cards in the required manner[;].

[7.]8. [Presenting] No person shall present a pass, transfer, badge, or other fare medium for transportation on [such bus or special transit vehicle,] the County bus system when the person presenting such fare medium knows it has not been provided, authorized or sold by or for the transit system, or knows or should reasonably know, that the pass, transfer, badge, or other fare medium is not valid for the place, time, and manner in which it is presented, or knows or should reasonably know, that the presentation of the pass, transfer, badge, or other fare medium violates a restriction on the transfer or use of such fare medium imposed by County ordinances or rules[;].

[8.]9. [Carrying, possessing, igniting, or releasing] No person shall carry, possess, ignite, or release any flammable, combustible, explosive, corrosive, or highly toxic liquid or other substance, article, or material that may cause harm to others or emit any foul or noxious dust, mist, fume, gas, vapor, or odor; provided that this paragraph shall not be construed to prohibit a person from carrying or possessing any unlighted match or lighter, or any cigar, cigarette, or pipe that is not lighted or smoldering[;].

[9.]10. [Spitting, expectorating, urinating, or defecating] No person shall spit, expectorate, urinate, or defecate in, on, upon, or from the bus [or vehicle;], or County bus stop, transit facilities, or transit facility amenities; provided that this paragraph shall not apply to any person who cannot comply with this paragraph as a result of disability, age, or medical condition[;] as determined by the director.

[10.]11. [Obstructing, impeding, hindering, interfering] No person shall obstruct, impede, hinder, interfere with, or otherwise [disrupting] disrupt the safe and efficient operation

of the bus or vehicle or any driver or other agent of the transit system in performance of that individual's official duties[;].

[11.]12. [Boarding] No person shall board the bus through the rear exit door, unless specifically directed to do so by the driver, any other agent of the transit system, or a police officer[;].

[12.]13. [Throwing or placing] No person shall throw or place hot burning substances or objects such as lighted cigars, cigarettes, or the contents of a burning pipe in, upon, or in close proximity to any object or structure in a County transit bus [or special service vehicle], ADA paratransit service vehicle, transit facility, or transit facility amenity that may be combustible or damaged by heat, fire, or explosion[;].

[13.]14. [Refusing or failing] No person shall refuse or fail to immediately cease and desist from doing any of the activities described in this subsection after being specifically requested to cease and desist by the driver, any agent of the transit system, or any police officer[; and].

[14.]15. [Refusing or failing] No person shall refuse or fail to immediately exit a [County transit] bus [or special transit service vehicle] after being specifically requested to do so by the driver, any agent of the transit system, or any police officer.

16. No person shall smoke, in any bus, or within designated non-smoking areas at any County bus stop, transit facilities, or transit facility amenities.

17. No person shall erect, install, or place any structure, fixture, tarp, towel, blanket, sleeping bag, bedding, chair, tent, cardboard, ply board, shopping cart, or any other object or material at any County bus stop, transit facilities, and transit facility amenities.

18. No person shall abandon any vehicle at any County bus stop, transit facilities, and transit facility amenities. Abandoned vehicles will be towed at owner's expense.

19. No person shall sit, lie, sleep, or occupy any County bus stop, transit facilities, and transit facility amenities in a manner that inhibits its full and appropriate use by the public.

20. No person shall injure, deface, destroy, loosen, remove, or tamper with any County bus stops, transit facilities, and transit facility amenities.

21. No person shall affix signs, advertisements, and/or distribute circulars, handbills, or written material on, or within County bus stops, transit facilities, and transit facility amenities, unless approved by the director.

22. No person shall engage in any commercial activity within a bus, any County bus stop, transit facilities, and transit facility amenities unless approved by the director.

23. No person shall abandon, store, or leave personal property unattended in any bus or at any County bus stop, transit facilities, or transit facility amenities. Abandoned personal property shall be disposed of by the department.

B. The driver of any [County transit] bus [or special transit service vehicle], any agent of the transit system, or any police officer may refuse to allow any person to board the bus [or vehicle]:

1. When the person appears to be under the influence of liquor or drugs; or].

2. When the person is engaged in, or appears to be engaged in, activities that, if such activities occurred in the bus [or vehicle], would violate subsection A [of this section] or any other law or ordinance.

C. The driver of any [County transit] bus [or special transit service vehicle] or any agent of the County transit system may refuse to transport any person who has already boarded the bus [or vehicle, and the]. The driver, agent, or any police officer may cause such person to be ejected from the bus [or vehicle]. It shall be a violation of this section for a person to board a [County transit] bus [or special transit service vehicle] after being requested not to do so by the driver, another agent of the transit system, or police officer for the reasons specified in this section, or for a person to refuse or fail to immediately exit a [County transit] bus [or special transit service vehicle] when so requested by the driver, another agent of the County transit system, or police officer for any of the reasons specified in this section.

11.04.020 Penalty. A. Any person violating [sections] subsections 11.04.010(A)(1) through (7), or aiding, abetting, or assisting another person in violating any [of] such [provisions] subsections, shall, upon conviction thereof, be fined in an amount not exceeding \$100.

B. Any person violating [sections] subsections 11.04.010(A)(8) through [(14),] (23), or aiding, abetting, or assisting another person in violating any [of] such [provisions] subsections, shall, upon conviction thereof, be guilty of a petty misdemeanor[.], punishable by up to 30 days jail, or \$1,000 fine.

C. Each violation of any of the prohibited activities set forth in [section] subsection 11.04.010(A) shall constitute a separate offense and shall be punishable as such under this section.

D. Any police officer, upon identifying a person for a violation of this chapter, [shall] may issue thereto in writing a

summons or citation [notifying such person to file an answer to the complaint to be entered against such person at a place and at a time provided in the summons or citation,] as outlined in section 803-6(b)(c)(d), Hawaii Revised Statutes, except that the police officer may make a physical arrest in the following instances when:

1. The alleged violator refuses to provide the police officer with the person's name and address or any proof thereof as may be reasonably necessary for the police officer[;].

2. The alleged violator fails or refuses to immediately cease and desist from a prohibited activity or to immediately exit the [County transit] bus [or special transit service vehicle,] as determined by the driver of the bus, or [vehicle,] any agent of the transit system, or any police officer if the police officer is on the vehicle, after the alleged violator is issued a summons or citation[; or].

3. The alleged violator has violated [sections] subsections 11.04.010(A)(8) through [(14).] (23).

E. There shall be provided for use by police officers a form of summons or citation for use in citing violators of this chapter where circumstances do not require the physical arrest of violators. The form of the summons or citation shall be consistent with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the summons or citation valid within the laws and rules of the State of Hawaii and the County. The form and content of such summons or citation shall be adopted or prescribed by the administrative judge of the district court; provided that the administrative judge may approve the use of a form of summons or citation previously adopted or prescribed for other offenses and such approval shall be deemed to meet the requirements of this subsection. In every case where a citation is issued, the original shall be given to the alleged violator; provided that the administrative judge of the district court may prescribe that the alleged violator be given a copy of the citation and provide for the disposition of the original and any other copies. Every citation shall be consecutively numbered, and each copy shall bear the same number as its original.”

SECTION 7. Chapter 11.05, Maui County Code, is amended to read as

follows:

“11.05.010 Authorization. The department shall provide [a special transit] ADA paratransit service and establish policies and guidelines for its operation. The policies and guidelines shall conform to applicable transit plans of the department. The department may contract with a private entity to manage, operate,

and maintain the [special transit] ADA paratransit service on behalf of the County.

11.05.020 Service. The department shall provide [special transit] ADA paratransit service by reservation, subscription, call response, or combination thereof, to most effectively meet the needs of persons with disabilities.

11.05.030 Eligibility. A. Any person desiring a certification to use the [special transit] ADA paratransit service shall first file an application on forms furnished by the department or the department's [special transit] ADA paratransit service system operator.

B. An applicant must be certified by the director or the director's designee to be paratransit eligible in accordance with the [Americans with Disabilities Act of 1990 (ADA)] ADA and 49 CFR section 37.123, as amended, to use the [special transit] ADA paratransit service.

C. The following persons are ADA paratransit eligible:

1. Any person with a disability who is unable, as a result of a physical or mental impairment and without the assistance of another person, to board or disembark from any [County transit] fixed route bus which is otherwise readily accessible [to persons with disabilities];

2. Any person using a wheelchair if the person's wheelchair cannot be accommodated on a [County transit bus, even if that County transit bus is] fixed route bus which is otherwise readily accessible to other persons with disabilities and their wheelchairs;

3. Any person with a disability who has a specific impairment-related condition that prevents such person from traveling to and from [official] County bus stops [on the County bus system]; or

4. Any person who has been certified by a medical physician that the person has a physical or mental disability that precludes the person from using [the County bus system.] a fixed route bus.

D. Architectural or environmental barriers not under the control of the department shall not serve as a basis for eligibility under this section. Interference by such barriers with a person's specific impairment-related condition may form a basis for eligibility if the result is to prevent the person from traveling to and from [official] County bus stops.

11.05.040 Personal care attendant. Persons accompanying an ADA [paratransit] eligible [passenger] individual shall be provided service as follows:

1. An ADA [paratransit] eligible [passenger] individual may be accompanied by a personal care attendant.

2. If the ADA [paratransit] eligible [passenger] individual is traveling with a personal care attendant, one [person] companion may accompany the ADA eligible [passenger] individual in addition to the personal care attendant. [To be considered as "accompanying" the eligible passenger, the accompanying person] The companion and/or personal care attendant shall have the same origin and destination as the ADA eligible [passenger.] individual.

3. The [accompanying person] companion may be provided service if space is available [for the person] on the ADA paratransit service vehicle carrying the ADA [paratransit] eligible [passenger] individual and transportation of the [accompanying person] companion will not result in [a] denial of service to other ADA [paratransit] eligible [passengers.] individuals.

11.05.050 [Special transit] ADA paratransit service card.

A. Each certified [paratransit] ADA eligible [passenger] individual shall be issued [a special transit] an ADA paratransit service card without charge, specifically endorsed for the [special transit] ADA paratransit service by the department or its designated representative. The [special transit] ADA paratransit service card shall be shown to the [operator] driver when so requested.

B. [A special transit] An ADA paratransit service card shall be effective [for two] up to four years from the applicant's last birthday. The [special transit] ADA paratransit service card may be renewed prior to [the] expiration [of the prior term,] provided the person requesting renewal demonstrates at each renewal date that the person's medical or physical condition warrants continued status as an ADA [paratransit] eligible [passenger.] individual.

C. [A special transit] An ADA paratransit service card [effective for less than two years] may be issued to a person with a disability that is not expected to remain for two years, as determined by the applicant's certifying health care professional. The card shall be effective for [any] an appropriate period equal to the expected duration of the person's disability[, but for no longer than one year]. Should a person's disability continue beyond [the] one year [period], the person shall reapply for [a special transit] an ADA paratransit service card.

[D. An application for renewal of a special transit service card shall be submitted at least sixty days prior to the date of expiration.

E.]D. [Special transit] ADA paratransit service cards may be recalled at the discretion of the director or the director's designee for recertification or statistical purposes. The director or the director's designee may extend the effective date of a card when the card is recalled for recertification or statistical purposes to reduce large fluctuations in card renewals in future years. Cards issued after a recall may have physical characteristics different from those issued before the recall.

[F. Any person holding a special transit service card shall relinquish such card if issued a card under sections 11.03.040 and 11.03.050 of this code.]

11.05.060 Appeal. Any person denied [a special transit] an ADA paratransit service card may appeal the director's decision under the procedures established in section 11.03.050 of this [code.] title.

11.05.070 Fare. A. Any person issued [a special transit] an ADA paratransit service card under this chapter and [an accompanying person] companion utilizing the [special transit] ADA paratransit service shall pay the fare as set forth in the annual County budget ordinance.

B. A personal care attendant shall pay no fare when accompanying an ADA [paratransit] eligible [passenger.] individual."

SECTION 8. Chapter 11.07, Maui County Code, is amended to read as follows:

"11.07.010 Establishing County bus stops. The department may establish new County bus stops[,] or transit facilities, or terminate or relocate existing County bus stops[,] or transit facilities. If necessary for the purpose of establishing new County bus stops[,] or transit facilities, the department may recommend to the director of finance the acquisition of real property in fee, by lease, or by easement, pursuant to section 3.44.015 of this code. The design criteria for County bus stops or transit facilities shall be in accordance with the department's "Maui County Bus Stop Planning and Design Services" report dated August 2008, as may be amended, and on file with the department.

11.07.020 Parking prohibitions[.] at bus stops and transit facilities. Except for [County transit] buses [and special transit service vehicles] in the process of boarding or unloading passengers, no person shall stop, stand, [or] park or abandon a vehicle at [a] County bus [stop.] stops or transit facilities. This section shall not apply to police or emergency vehicles while in the performance of official duties.


11.07.030 Crosswalks. The department may recommend to the director of public works the establishment of crosswalks near County bus stops or transit facilities to improve pedestrian safety. Crosswalks shall be established pursuant to chapter 10.60 of this code.

[11.07.040 Advertising at County bus stops. The department may rent or contract for advertisement displays at County bus stops. Advertising prohibited by section 11.02.040 of this code for spaces inside County transit buses shall be prohibited at County bus stops. All net revenues derived from advertisements at County bus stops shall be deposited into the County highway fund.]”

SECTION 9. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 10. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:



JERRIE L. SHEPPARD
Deputy Corporation Counsel
2018-0451
2018-09-27 Ordinance