

Great Committee

From: Lewis Upfold <lewis@bikemaui.com>
Sent: Tuesday, December 28, 2021 11:42 AM
To: Mike J. Molina; Great Committee; Ben Hall; Jeremy Hall; Phil Feliciano
Subject: Haleakala Bike Ordinance Draft
Attachments: Best Practice 12.17.21.docx; Bike Ordinance Bicycle Tour Businesses + Rentals - KCA-Bike Version 12-21-2021 (002).doc

Some people who received this message don't often get email from lewis@bikemaui.com. [Learn why this is important](#)

Aloha Dick Mayer and Happy Holidays! I hope that you had a great Christmas weekend.

Thank you again for bringing this issue to the table and facilitating the discussions regarding the bike tour industry and its effects on the upcountry community. As members of the community itself we appreciate the effort that you and the Maui County Council put into ensuring concerns are heard and addressed. As a business in the community, we appreciate your openness and willingness to hear our voices as well and consider our thoughts when addressing this concern.

We recently had an opportunity to meet with the Kula Community association and Dick Mayer. Many voices were heard at this last meeting and I personally felt that it went well and that this has got to be the most complete and cordial discussion we've had with the local community regarding our business and the downhill bike activity. Our industry leaders also met to discuss the issue at hand and had a good discussion on the things that we can do to help, while at the same time protecting the interest of our businesses and the many local staff that we employ. Based on the things discussed in these meetings, we've adapted the ordinance draft which KCA provided recently and created a revised version that includes our collaborative thoughts. We appreciate the work and effort you and the GREAT committee have put forth on this and look forward to working with you to come to a solution that helps us all out.

I just wanted to get this to you before the new year, and hope you can take the time to review it.

Thank you again for working with us, and Happy Holidays from myself, Phil Feliciano, Ben and Jeremy Hall, and all of us at Haleakala Bike Company.

Mahalo!

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Bicycle Tour Company – Best Practices

1. All bike tour operations must obtain a Bicycle Tour Permit issued by the County of Maui and comply with all requirements of the issued permit. The Permit will be put in every tour vehicle and displayed at the base of operations and made available upon request. A seal of approval showing that the company is permitted to operate bicycle tours through the County of Maui shall be posted on all printed and digital media.
2. All permitted operators will post a “Know before You Go!” feature on all printed and digital citing the requirements and qualifications for all participants, details about the route, road conditions, and risks in the biking activity.
3. All permitted operators will provide to guests and staff information on state and county laws pertaining to bicycle riding on public roads and the proper and legal manner to ride bikes on said roads.
4. All permitted operators will agree and adhere to a minimum age of 12 yrs. old for all bicyclist, and will not provide tandem bikes and trailers for youngsters.
5. All permitted operators will train drivers and guides in First Aid and CPR within the first 30 days after training. All employees operating bike tours will have a minimum of 3 days of training which shall be documented and provided upon request by the Permit renewal process.
6. All Permitted operators will ensure that all participants of bike tours, wear helmets that are fitted properly, and must wear the helmet thru-out the entirety of the tour. All bike guides must also wear a properly fitted helmet, and the guide shall ride in a professional manner. No stunt riding by guides or guests. Off road riding prohibited.
7. All guided tour groups will utilize common pull outs to ensure traffic is not impeded. The best method is to pull out at the next available safe pull out upon receiving 1 car behind the escort vehicle. Guides will compress the group to allow for quicker passing of the vehicles. Drivers will follow group at a distance of no MORE than 500ft. Operators should never block traffic deliberately.
8. All Vehicles will be equipped with equipment to communicate between escort vehicles and cruise leaders as well as between vehicles and baseyard operations. All staff will have a cell phone capable of calling 911 in case of emergency.
9. Self Guided participants and rentals will be instructed to provide space between each family, groups, or couple to allow quicker passing of vehicles. All self guided participants will be instructed to always ride responsibly with absolute courtesy to local traffic. And may not stop or trespass on private property unless invited.
10. All vehicles used in tours shall always have a fully stocked First Aid kit suitable for the possible required need. First aid kits should be examined and replenished regularly.
11. All Permitted operators will provide a thorough safety briefing, stating rules of the road for safe riding and information mechanics of the bicycle they are about to ride. An industry approved safety video or an in person safety demonstration should be provided to emphasize safety for both riders and vehicles.
12. Safety of participants as well as other users of the roads shall be made priority in all operations and practices.

Notes: This document contains a DRAFT for a new Maui County ordinance to regulate the commercial Bicycle Tour and Rental businesses.

ORDINANCE NO. _____

BILL NO. _____ (2021)

A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 5.23, MAUI COUNTY CODE, RELATING TO REGULATION OF BICYCLE TOUR AND BICYCLE RENTAL BUSINESSES

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

SECTION 1. Purpose. The purpose of the bill is to update the regulations relating to bicycle tour businesses by incorporating certain recommendations of the Maui County Downhill Bicycle Tour Study, with the intent of improving the safety of tour operations and mitigating disruptions to local traffic.

SECTION 2. Chapter 5.22, Maui County Code, is repealed.

SECTION 3. Title 5, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter 5.23

BICYCLE TOUR AND BICYCLE RENTAL BUSINESSES

Sections:

5.23.010 Definitions.

5.23.020 Unlicensed bicycle tour and bicycle rental businesses prohibited - application for permit.

5.23.030 Requirements for bicycle tour or bicycle rental operation.

5.23.040 Restrictions on bicycle tour operations.

5.23.050 Term of permit.

5.23.060 Nontransferable.

- 5.23.070 Inspection of permit.
- 5.23.080 Unlawful bicycle tour or bicycle rental operations - enforcement - penalty - revocation.
- 5.23.090 Other requirements.
- 5.23.100 Appeals.
- 5.23.110 Rules.

5.23.010 Definitions. For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are defined as follows:

"Bicycle" means every vehicle propelled solely by human power upon which a person may ride, having two tandem wheels, and including any vehicle generally recognized as a bicycle though equipped with two front or two rear wheels.

"Bicycle rental business" means a commercial enterprise or establishment including, but not limited to, individuals, sole proprietorships, joint ventures, partnerships and corporations, whether for profit or nonprofit, that rents or sells bicycles.

"Bicycle tour" means a group of two or more persons, organized by a bicycle tour business, with or without a guide present. The renting of bicycles to persons for use in conjunction with a bicycle tour that travels over a specified route or routes shall be considered conducting a bicycle tour.

"Bicycle tour business" means a commercial enterprise or establishment including, but not limited to individuals, sole proprietorships, joint ventures, partnerships and corporations, whether for profit or nonprofit, that conducts a bicycle tour.

"Department" means the Maui County department of finance.

"Director" means the director of finance of the County.

"Notification" means either actual notice to the applicant for permit or written communication through registered or certified mail, return receipt requested. If service by registered or certified mail is not made because of inability to deliver, or refusal by the addressee to accept the notification, the director may give notice by publishing once in a newspaper of general circulation on the island of Maui. The director shall be entitled to rely on the names and addresses provided by the applicant, and it is the applicant's obligation to notify the director of any changes in same. Notification shall be considered given upon evidence of receipt of such letter or completion of publication of such notice as the case may be.

"Person" means and includes any individual, firm, society, organization, or corporation.

"Tour leader" means an employee of a bicycle tour business who shall be situated at the front of the bicycle tour at all times and be responsible for the safety of the bicycle tour.

5.23.020 Unlicensed bicycle tour and bicycle rental businesses prohibited - application for permit.

A. It is unlawful to operate a bicycle tour or bicycle rental business without a permit issued by the director in accordance with this chapter.

B. The application shall be in writing, filed with the director and shall include the following:

1. The name, business mailing address, physical business address, email, and telephone number of the applicant.
2. The names and addresses of the bicycle tour or bicycle rental business and the business owners for whom the applicant is acting.
3. A description and map of the areas, locations, or routes to be utilized by the bicycle tour business.
4. A description and the registration numbers of all motor vehicles and bicycles to be used by the bicycle tour or bicycle rental business.
5. The days and times when the bicycle tours will be conducted.
6. Any other information which may be required in rules adopted by the director to enforce this chapter.
7. An application fee as set forth in the budget ordinance. Fees paid by bicycle tour and rental companies may be utilized to provide bicycle pull outs along bicycle tour routes.

C. No permit shall be issued to a bicycle tour or bicycle rental business, unless the business:

1. Obtains, pays for, and keeps in force throughout the term of the business permit, comprehensive liability insurance, with the minimum requirements determined by the department or the corporation counsel. The insurance policy, as evidenced by issuance of a policy endorsement, shall name the County, its officers, employees, and agents, as an additional insured. The insurance policy shall contain a provision stating the liability provisions extend beyond the policy dates to cover any accident and liabilities that occurred during the time the policy was in effect.

The bicycle tour or bicycle rental business shall furnish the director with a copy of the insurance policy certificate and the required endorsements verifying such insurance coverage upon the issuance of the business permit. If the scheduled expiration date of a current insurance policy is earlier than the expiration of the business permit, the bicycle tour or bicycle rental business shall, upon renewal of the insurance policy, provide the County with a copy of the renewed insurance policy certificate and required endorsements. The insurance policy shall expressly state that the coverage provided under such policy shall not be canceled or terminated, unless the carrier has first given the

County at least thirty calendar days prior written notice of the intended cancellation or termination.

2. If there is no insurance in effect, the permit is immediately revoked and all bicycle tours and rentals must cease.

3. Executes an indemnification agreement with the director requiring the bicycle tour or bicycle rental business to indemnify, defend, and hold the County, its officers, employees, and agents, harmless against any loss sustained, in whole or in part, as the result of the activities of the bicycle tour business.

D. Review of application. Within seven working days upon receipt of a bicycle tour business application, the director shall submit a copy of the application to the department of police. Within thirty working days from the receipt thereof, the department of police shall submit to the director a written report with any recommendations or special conditions which may be necessary or desirable. A bicycle tour or bicycle rental business application shall be approved or denied within forty-five working days from the receipt thereof or the application shall be deemed approved.

E. Issuance or denial of permit. The director shall issue a bicycle tour or bicycle rental business permit, upon payment of any required fee, with or without special conditions or requirements as may be appropriate. Upon issuance of a bicycle tour permit, the director shall provide the department of police and the State department of transportation an updated list of all valid permits issued, pursuant to this section, indicating the name of the bicycle tour business, permit number, and permit expiration date for each permit. The director shall also provide the department of police and State department of transportation a map of the area(s), location(s), and routes to be utilized by each bicycle tour business. If the director refuses to issue or revoke a permit, the director shall notify the applicant in writing of the director's decision.

F. An Extension of the permit may be granted if the permit has expired but the applicant is in the process of obtaining a new permit. This extension would be granted at the discretion of the director and not guaranteed. To ensure timely permit issuance, renewal applications for permits should be made easier than initial application if company vehicles, location, equipment, and operations remain unchanged.

5.23.030 Requirements for bicycle tour or bicycle rental operation.

A. All bicycles used in the operation must have a valid license.

B. All vehicles used in the operation must have a valid license, and registration, and pass an annual safety inspection.

C. A bicycle license fee, as set forth in the budget ordinance, shall be paid to the director for each rental bicycle.

5.23.040 Restrictions on bicycle tour operations.

A bicycle tour business obtaining a permit, issued pursuant to this chapter, must ensure it is operating in a safe manner according to best practices, which may include, but are not limited to the following:

A. Bicycle tour groups shall be staggered at all times with at least ten-minute intervals between groups at the start of a tour. Self-guided parties shall be staggered in 2 minute intervals between parties at the start of the tour.

B. Every opportunity shall be taken to safely allow following traffic to pass, either in a legal passing zone or by moving the group off the roadway.

C. A bicycle tour business may not operate a bicycle tour through:

1. Any area in Makawao or Paia towns that is zoned country town business; and the residential areas in Kula, located makai of property situated at 17929 Haleakala Highway, Kula, Maui, Hawaii, prior to 8:30 a.m. on weekdays. No bike tours shall be conducted after sundown

D. Before conducting a bicycle tour, the permit holder shall provide safety training and equipment to all participants on the tour. Tour leaders must make sure that all bicycle riders are wearing a safety helmet.

E. Tour leaders must ensure that each rider is capable of safely operating the bicycle. Leaders have an obligation to remove anyone from the tour incapable of safely operating the bicycle or who poses a threat to the safety of the rider, other bikers, or vehicles on the road.

F. All those joining a bike tour or renting a bicycle must sign a waiver in which the rider recognizes the danger of bicycle riding on Maui

County's roads and highways which contain steep downhill sections and many very sharp curves.

G. As a result of an accident, payments for medical treatment and ambulance service are the responsibility of the bicycle rider.

H. Safety Inspection. All bicycle tour or bicycle rental businesses must shall inspect each bicycle daily to assure that it is mechanically sound and in a safe operating condition. Inspections shall include tire condition and pressure, brakes, seat adjustment, handlebars, and other necessary items for safe operation.

I. All bicycle vans trailing a bicycle tour should drive with lights on and indicate with signage on the van that there is a bicycle tour activity ahead.

J. There shall be no more than 10 bicycles per group. Self-Guided groups shall divide participants into parties of no more than 6 riders.

5.23.050 Term of permit. A permit issued pursuant to this chapter shall, unless suspended or revoked, be valid for one year from the date of issuance.

5.23.060 Nontransferable. A permit issued under this chapter shall not be transferable and authorizes only the named permit holder to operate a bicycle tour or bicycle rental business.

5.23.070 Inspection of permit. A bicycle tour or bicycle rental business issued a permit under this chapter shall display the permit in a prominent place at all times, convenient for inspection, at the business location, and while engaging in bicycle tour or bicycle rental activities. Vehicles providing transportation of riders and trailers providing transportation of equipment for a bicycle tour business shall be identified on the sides or back of the vehicle with the business name, PUC license, permit number, permit expiration date, and telephone contact information. A violation of this section is punishable by a fine of not more than \$500 per day.

5.23.080 Unlawful bicycle tour or bicycle rental operations - enforcement - penalty - revocation.

A. A bicycle tour or bicycle rental business operating without a valid permit issued in conformity with this chapter shall be ordered to discontinue the bicycle tour business and, upon notice of violation, shall be fined \$1,000 per day of operating without a permit.

B. Upon discovering a violation of the provisions of this chapter, the director has the authority to suspend or revoke a permit issued pursuant to this chapter if it is determined by the director that any rule, ordinance, statute, or condition related to the permit has been violated by the permit holder. In addition, upon violation of any rule, ordinance, statute, or condition, the permit holder shall be fined \$500 per day per violation.

5.23.090 Other requirements. All other permits and licenses necessary to conduct a bicycle tour or bicycle rental business shall be secured by the business conducting the tour or rental. A granting of a permit hereunder shall not relieve the applicant of the responsibility of complying with the laws of the federal, state, and county governments applicable to the applicant's business.

5.23.092 Enforcement. Maui Police Department officers and Parks Department CORA officials may cite companies, employees, and bicycle riders who violate the requirements in this chapter and the rules established by the director.

5.23.094 Hawaii State Law. HRS 46 - 16.3 and HRS 291-142,143,144,145 should be referred to for further information about bicycles operating on County and State roads and highways.

5.23.100 Appeals. A person aggrieved by a decision of the director may file an appeal with the board of variances and appeals pursuant to chapter 19.520 of this code.

5.23.110 Rules. The director may adopt rules to implement this chapter."

SECTION 4. This ordinance shall take effect upon its approval; except that a bicycle tour business possessing a valid permit issued pursuant to Chapter 5.22, Maui County Code, prior to the enactment of this ordinance, shall be required to amend their current comprehensive liability insurance policy to comply with the provisions of this ordinance upon expiration of the permit or the current comprehensive liability insurance policy, whichever occurs first.