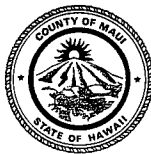


DANNY A. MATEO  
County Clerk



JOSIAH K. NISHITA  
Deputy County Clerk

**OFFICE OF THE COUNTY CLERK**

COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov/county/clerk](http://www.mauicounty.gov/county/clerk)

July 20, 2018

RECEIVED

2018 JUL 20 PM 3:24

OFFICE OF THE  
COUNTY COUNCIL

Honorable Yuki Lei Sugimura, Chair  
Policy, Economic Development, and  
Agriculture Committee  
Council of the County of Maui  
Wailuku, Hawaii 96793

Dear Chair Sugimura:

Respectfully transmitted are copies of the following communications that were referred to your Committee by the Council of the County of Maui at its meeting of July 20, 2018:

COUNTY COMMUNICATIONS:

- No. 18-274 - Alan M. Arakawa, Mayor
- No. 18-276 - Yuki Lei K. Sugimura, Councilmember

Respectfully,

A handwritten signature in black ink, reading "Danny A. Mateo". The signature is written in a cursive style with a large, stylized "M" at the end.

DANNY A. MATEO  
County Clerk

/jym

Enclosures

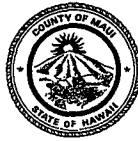
cc: Director of Council Services

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alikea Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



Director of Council Services  
Maria E. Zielinski

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

July 12, 2018

RECEIVED  
2018 JUL 13 AM 9:54  
OFFICE OF THE  
COUNTY CLERK

The Honorable Mike White  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair White:

**SUBJECT: REGULATION OF BICYCLE TOUR BUSINESSES AND  
BICYCLE RENTAL BUSINESSES (PAF 18-093)**

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 5.23, MAUI COUNTY CODE, RELATING TO REGULATION OF BICYCLE TOUR AND BICYCLE TOUR RENTAL BUSINESSES," be placed on the next Council meeting agenda.

Sincerely,

*Yuki Lei Sugimura*

YUKI LEI SUGIMURA  
Councilmember

paf:ajw:18-093j

Enclosure

COUNTY COMMUNICATION NO. 18-276

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2018)

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.

"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. A description of any structure or other personal property, including trailers, to be used in conjunction with the bicycle tour or bicycle rental business.

6. The days and times when the bicycle tours will be conducted.

7. Any other information which may be required by rules adopted by the director to enforce this chapter.

8. An application fee as set forth in the budget ordinance.

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 of 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. 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 over and above those losses covered by the bicycle tour or bicycle rental business' general liability insurance coverage, including claims regarding design and maintenance of roadways and the County's permit review and approval process.

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 a permit, the director shall notify the applicant in writing of the director's decision.

**5.23.030 Requirements for bicycle tour or bicycle rental operation.** A. All bicycles used in the operation must have a valid license and pass an annual safety inspection.

B. An annual bicycle license fee, as set forth in the budget ordinance, shall be paid to the director for each tour and 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:

1. Regulating the intervals for which bicycle tour groups begin tours to limit unsafe bicycle congestion.
2. Limiting the number of bicycles and bicycle riders in a bicycle tour group.
3. Safely allowing vehicular traffic to pass alongside a bicycle tour group.
4. Providing adequate safety equipment and training to participants prior to commencing bicycle tour to ensure the safety of the bicycle tour group.
5. Ensuring the rider is capable of safely operating the bicycle.
6. Conducting frequent bicycle inspections.
7. Requiring bicycle tour participants and renters to sign waivers acknowledging the danger of bicycle riding.

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

1. Roads located adjacent to country town business zoned property, pursuant to chapter 19.15 of this code, in the Makawao-Pukalani-Kula or Paia-Haiku Community Plan Areas.
2. Roads located makai of mile marker 3, prior to 8:00 a.m. on weekdays.

**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 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 of operating without a permit.

**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 \$1000 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.

**5.23.100 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.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
JEFF UEOKA  
Department of the Corporation Counsel  
County of Maui  
2018-0832  
2018-07-11 Ordinance