



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6 OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY ADDING A NEW ARTICLE RELATING TO COMMERCIAL BICYCLE TOURS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Purpose. Chapter 46-16.3, Hawai‘i Revised Statutes, enables the County Council to “adopt and provide for enforcement of ordinances regulating commercial bicycle tours on state and county highways, including but not limited to ordinances relating to the number of tours, the number of bicycles within a tour, scheduling of tours, physical spacing of tours, rules of the road, health and safety requirements, equipment maintenance, driver and guide qualifications, driver and guide drug testing, accident procedures and reporting, and financial responsibility requirements.” In the interest of public safety, the purpose of this ordinance is to prohibit the operation of commercial bicycle tours on certain State and County roadways where limited lines-of-sight, a lack of passable shoulders, and other traffic conditions create unsafe and potentially dangerous circumstances for motorists and bicyclists.

SECTION 2. Chapter 6 of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

“Article __. Commercial Bicycle Tours.

Section 6-__. **Definitions.**

As used in this article, unless the context clearly requires otherwise:

“Bicycle” means the same as defined in Chapter 291C-1, Hawai‘i Revised Statutes.

“Business” means the same as defined in Chapter 1 of this Code.

“Commercial bicycle tour” means a tour comprised of a group of persons traveling from place to place on bicycles for pleasure, recreation, and sightseeing, and is operated by a bicycle tour business. “Commercial bicycle tour” shall include guided bicycle tours and unguided bicycle tours.

“Guided bicycle tour” means a commercial bicycle tour that is accompanied or led by the owner, an employee, or an agent of the bicycle tour business providing the bicycle tour for the duration of the tour.

“Public highway” means the same as defined in Chapter 264, Hawai‘i Revised Statutes.

“Unguided bicycle tour” means a commercial bicycle tour that is not accompanied or led by the owner, an employee, or an agent of the bicycle tour business throughout the ride, and in which transportation to or from the route is provided or arranged by the bicycle tour business.

Section 6-___. Applicability.

This article shall apply to all commercial bicycle tours on any public highway, or any designated portion thereof.

Section 6-___. Annual registration.

- (a) Prior to the first day of each January, any business or person operating a commercial bicycle tour in the County shall register annually with the director of finance, which registration shall be made in such form as prescribed by the director of finance and shall include:
 - (1) The name, business address, mailing address, phone number, and e-mail of the registrant;
 - (2) The name and contact information of any representatives authorized to act on behalf of the registrant;
 - (3) Locations, areas, and routes to be utilized for bicycle tours, tour schedule, and the maximum number of participants per tour group;
 - (4) Written and notarized permission from any property owner whose property the commercial bicycle tour traverses; and
 - (5) A description of all moveable structures, including trailers or mobile containers, used in conjunction with the bicycle tour business.
- (b) A registration fee shall accompany the annual registration, which shall be \$500 for the initial registration and \$250 for each subsequent registration, provided that failure to register shall incur a fine of \$1,000 for each unregistered year and the first registration thereafter shall be considered the initial registration.

Section 6-___. Authority to restrict.

- (a) The council may by ordinance prohibit commercial bicycle tours on designated portions of public highways due to unsafe road conditions.
- (b) The council may not enact any such prohibition until having requested the respective opinions of the chief of police, the director of public works, and other public officials deemed appropriate as to whether the operation of commercial bicycle tours compromises public safety on the highways, or portions thereof, identified in the proposed prohibition. The chief of police and director of public works shall provide their respective opinion within thirty days of the request by the council.
- (c) With respect to any prohibition considered by the council, unsafe road conditions include, but are not limited to, narrow pavement widths, unpassable shoulders, limited sight distances, steep grades, one-lane bridges, and winding or hilly terrain.

Section 6-___. Prohibited highways for commercial bicycle tours.

In accordance with section 6-___ and when signs are erected giving notice thereof, commercial bicycle tours shall not operate on the following public highways:

(a) Hāmākua
(b) North Hilo

(c) South Hilo
(d) Ka'u
(e) Kohala
(f) Kona
(g) Puna

Section 6-___. Penalties.

Any bicycle tour business that violates operates a commercial bicycle tour on a prohibited highway shall be subject to:

- (1) A fine of not more than \$500 for the first offense; and
- (2) A fine of not less than \$1,000 per bicycle for the second or subsequent offense committed within one year of the date of the first offense.

Section 6-___. Administrative rules.

The director of finance may adopt administrative rules pursuant to chapter 91, Hawai'i Revised Statutes, as may be necessary to implement this article.”

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

