

REQUEST FOR LEGAL SERVICES

D a t e: September 22, 2016

F r o m: Stacy Crivello, Chair

Housing, Human Services, and Transportation Committee

TRANSMITTAL

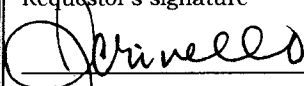
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: ANIMAL REGULATIONS (HHT-40)

Background Data: Further revise proposed bill as indicated on the attached marked-up copy.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Stacy Crivello, Chair	Contact Person <u>Michele Yoshimura</u> (Telephone Extension: <u>7663</u>)
---	---

☐ ROUTINE (WITHIN 15 WORKING DAYS)

☐ RUSH (WITHIN 5 WORKING DAYS)

☐ PRIORITY (WITHIN 10 WORKING DAYS)

☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 28, 2016

REASON: For posting on September 30, 2016 for the October 7, 2016 Council meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
--------------	----------------	-----

TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)

☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

hht:ltr:040acc01:mmv

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING SECTION 6.04.040,
MAUI COUNTY CODE, RELATING TO ANIMAL REGULATIONS FOR DOG
RESTRAINTS, AND SECTION 6.04.090, MAUI COUNTY CODE,
RELATING TO ANIMAL CONTROL OFFICERS

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

SECTION 1. Section 6.04.010, Maui County Code, is amended by amending the definition of "Guide dog," "service dog," and "signal dog" to read as follows:

"Guide dog[,] ["service dog,"] and "signal dog" shall have the same meaning as defined in Hawaii Revised Statutes section 515-3."

SECTION 2. Section 6.04.010, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Service dog" shall have the same meaning as defined in the Americans with Disabilities Act."

SECTION 3. Section 6.04.040, Maui County Code, is amended to read as follows:

"6.04.040 Animal regulations—general. A. An owner of a dog shall keep the dog under restraint, except for the following:

1. A dog being used by law enforcement agencies for law enforcement purposes[;].
2. A dog used during hunting, accompanied by its owner, and used with the consent of the owner of the real property upon which the hunting occurs[;].

3. A dog used during organized competitions, or during training for such competitions, accompanied by its owner, and used with the consent of the owner of the real property upon which the dog is used[; and].

4. A dog being monitored by its owner or handler within the confines of an authorized dog park.

5. Dog(s) ~~utilized~~ for farming, agricultural purposes, *ranching* and *herding*. *actively engaged*

6. Service dog(s) where being under restraint interferes with the service dog(s) work or the individual's disability prevents them from placing the service dog under restraint.

B. An owner of an animal shall treat the animal in a humane manner. Owners of pet animals shall be subject to the penalties as provided in section 711-1109(1)(b), Hawaii Revised Statutes, pertaining to cruelty to animals in the second degree. Owners of all other animals shall treat the animal in a humane manner and be subject to the penalties as provided in section 6.04.110.C.

C. An owner of a dog shall not allow the dog to cause a nuisance. The owner shall be held responsible for every behavior of such dog under the provisions of this chapter.

D. No person shall abandon an animal.

E. An owner of a dog shall not intentionally, knowingly, recklessly, or negligently permit the dog to:

1. While on or off the owner's property, attack a person, causing bodily injury to the person[; or].

2. While off the owner's property, attack a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service, causing serious bodily injury or death to the animal[; or].

3. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of bodily injury to one or more persons[; or].

4. While off the owner's property, behave in a manner that a reasonable person would believe poses an imminent threat of serious bodily injury or death to a pet animal, equine animal, goat, sheep, other domesticated animal, or any animal that is listed as threatened or endangered by the United States Fish and Wildlife Service.

F. Any person who harvests aquatic life for sale for aquarium purposes shall:

1. Treat aquatic life in a humane manner. For the purposes of this section, inhumane treatment of aquatic life includes:

a. Intentionally or knowingly causing injury to aquatic life, including: piercing or deflating a fish's swim bladder; cutting or trimming the fin or spine of any fish; withholding food for more than twenty-four hours for transport purposes, including carrying or causing to be carried upon any vehicle or other conveyance.

b. Intentionally, knowingly, recklessly, or negligently carrying or causing to be carried in or upon any vehicle or other conveyance in a manner resulting in the injury or death to aquatic life.

2. For each species, document and biannually submit to animal control the mortality rates, including cause of death, if known, of all aquatic life collected for sale for aquarium purposes. The most recent biannual report required by this subsection must also be presented to an enforcement officer at any time upon request.

3. No provision of this chapter shall be construed to repeal or otherwise limit any provision of chapter 6.01 this title."

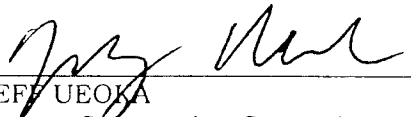
SECTION 4. Section 6.04.090, Maui County Code, is amended to read as follows:

"6.04.090 Animal control officers. Pursuant to section 143-7 of the Hawaii Revised Statutes, the council authorizes the mayor of the County or the mayor's authorized representative to establish, designate as volunteers, and hire animal control officers, subject to the limitations contained in the annual budget ordinance. All animal control officers shall have the powers of a sheriff or police officer to enforce this chapter, [and] chapter 6.08[,] and subsection 13.04A.070(D) of this code[;], and chapter 143 of the Hawaii Revised Statutes."

SECTION 5. 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 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JEFF UEOKA
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
2016-0921
2016-09-20 Revised Ordinance