

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

October 7, 2016

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 September 20, 2016, makes reference to the following:

1. County Communication 16-185, from Councilmember Don Couch, transmitting a proposed bill entitled "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."

The purposes of the proposed bill are to amend Sections 6.04.040 and 6.04.090, Maui County Code, by: (1) adding an exception to the requirement that an owner of a dog keep the dog under restraint, when a dog is a service dog or is used for farming, agriculture, guarding, or herding, and is within fenced property of a specified minimum height; and (2) authorizing animal control officers to enforce Subsection 13.04A.070(D), Maui County Code, relating to animal restrictions at County parks and recreational facilities.

2. County Communication 16-186, from Council Vice-Chair Don S. Guzman, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 6.04.040, MAUI COUNTY CODE, RELATING TO ANIMAL REGULATIONS."

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The purpose of the proposed bill is to amend Section 6.04.040, Maui County Code, by adding an exception to the requirement that an owner of a dog keep the dog under restraint when a dog is actively working on authorized farm or ranch property.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled "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," approved as to form and legality, incorporating: (1) a definition for "service dog"; (2) an exception for dogs utilized for farming, agricultural purposes, and herding; and (3) an exception for service dogs where being under restraint interferes with the service dog work.

A Deputy Corporation Counsel clarified the Section 6.04.090, Maui County Code, requirement that dogs be "under restraint" applies to all dogs. He further stated if any dog causes severe problems, it may be deemed as a dangerous dog and Section 6.04.046, Maui County Code, shall apply.

In response to your Committee's questions about the allowable activities in the proposed bill, the Deputy noted it is difficult to define farming, agriculture, and ranching activity in a way that would satisfy all parties. He said the animal control officers should use their best judgment in determining whether a dog is actively engaged in the proper activity allowing the dog not to be under restraint.

Your Committee noted the proposed definition for "service dog" is from the Americans with Disabilities Act.

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A representative from the Maui Humane Society informed your Committee its animal control officers follow service animal guidelines from the Hawaii Disability Rights Center which provide definitions relating to service animals, training of the animals, and allowable questions that may be asked of animal handlers.

Your Committee voted 5-1 to recommend passage of the revised proposed bill on first reading and filing of the communications. Committee Chair Crivello, Vice-Chair Baisa, and members Carroll, Couch, and Guzman voted "aye." Committee member Hokama voted "no." Committee member Victorino was excused.

Your Committee is in receipt of a further revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

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

1. That Bill _____ (2016), as revised herein and attached hereto, entitled "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 PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That County Communication 16-185 be FILED; and
3. That County Communication 16-186 be FILED.

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



STACY CRIVELLO, Chair

hht:cr:16040aa:mmy

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) actively engaged in farming, agricultural activities, or ranching.

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."

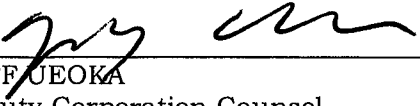
SECTION 4. Section 6.04.090, Maui County Code, is amended to read as follows:

"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
2016-0921/2014-3060
HHT-40 2016-09-23 Revised Ordinance per HHT Committee