

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04,
MAUI COUNTY CODE, PERTAINING TO ANIMAL CONTROL

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 "animal" to read as follows:

"Animal" means any fowl, reptile, aquatic life, or mammal other than a human being."

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

"Aquarium purposes" means to hold salt water fish, freshwater nongame fish, or other aquatic life alive in a state of captivity as pets, or for public exhibition or display, or for sale for these purposes.

"Aquatic life" means any species or type of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof."

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 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.

B. An owner of an animal shall treat the animal in a humane manner.

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. Attack a person or domestic animal; or
2. Behave in a manner that a reasonable person would believe poses an imminent threat of bodily injury to a person or serious injury or death to a domestic animal. The terms "negligently", "intentionally", "knowingly", and "recklessly" shall have the same meaning as are ascribed to the terms in section 702-206, Hawaii Revised Statutes.

F. No person shall own, harbor, train, or use any dog for the purpose of dog fighting.

G. Any person that collects aquatic life for aquarium purposes shall:

1. Obtain any necessary permits from the division of aquatic resources, department of land and natural resources.

2. Treat aquatic life in a humane manner. For the purposes of this section, inhumane treatment of aquatic life includes intentionally, knowingly, recklessly, or negligently:

a. Withholding food for more than twelve hours;

b. Causing injury, including: piercing or deflating a fish's swim bladder; fin or spine trimming; exposing to air; exposing to temperature fluctuations of more than a two degree difference from the water they were collected in; carrying, or causing to be carried, in or upon any vehicle or other conveyance, in a manner resulting in injury to the aquatic life; and

c. Causing the death of aquatic life.

3. Document the mortality rates and disposal methods of all aquatic life collected."

SECTION 4. Section 6.04.110, Maui County Code, is amended to read as follows:

"6.04.110 Penalties. A. Any person convicted of a violation of any section or provision of this chapter, except the provisions relating to excessive barking dogs and dangerous dogs, shall be fined not more than \$500. The minimum fine shall be as follows: for a first violation, a fine of not less than \$50; for a second violation within five years after a prior violation under this section, a fine of not less than \$100; and, for a third violation within five years after two prior violations under this section, a fine of not less than \$200.

B. Any person convicted of a violation of any section or provision of this chapter relating to excessive barking dogs shall be fined not more than \$500. The minimum fine shall be as follows: for a first violation, a fine of not less than \$100; for a second violation within five years after a prior violation under this section, a fine of not less than \$200; and, for a third violation within five years after two prior violations under this section, a fine of not less than \$500.

C. Any person convicted of a violation of any section or provision of this chapter relating to dangerous dogs shall be fined not more than \$1,000 and imprisoned not more than thirty days. The minimum sentence shall be as follows: for a first violation, a fine of not less than \$200; for a second violation within five years after a prior violation under this section, a fine of not less than \$500; and, for a third violation within five years after two prior violations under this section, a fine of not less than \$1,000. In addition, a court may require restitution for damages caused by a dangerous dog; provided, that this section shall not preclude a person damaged by a dangerous dog from pursuing a civil remedy.

D. The portion of the fine equal to the minimum fine shall not be suspended.

E. A successive violation of the same owner involving different dogs shall be considered a subsequent and not a first violation.


F. For purposes of this [Section] section 6.04.110, a violation is defined to include the payment of a fine directly to the district court or the finding of guilt by a court after a contested hearing.

G. Any person convicted of a violation of section 6.04.040.G shall be guilty of a misdemeanor subject to a fine of not less than \$500 and not more than \$2,000, or imprisonment for not more than one year, or both."

SECTION 5. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

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

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY GEOKA
Deputy Corporation Counsel
County of Maui
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