

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

October 3, 2008

**Committee
Report No.**

08-122

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Public Works and Facilities Committee, having met on November 14, 2007, and September 17, 2008, makes reference to County Communication No. 07-302, from the Director of Parks and Recreation, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 6.04.040, MAUI COUNTY CODE, RELATING TO ANIMAL REGULATIONS, AND AMENDING CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS".

The purpose of the proposed bill is to establish regulations pertaining to dogs, including the designation of dog parks.

By correspondence dated November 13, 2007, two members of the public provided testimony in support of the proposed bill. The testimonies cited the lack of public space for dog parks and the positive benefits of such areas in other jurisdictions.

At its meeting of November 14, 2007, your Committee met with the Director of Parks and Recreation; a Recreation Program Planner, Department of Parks and Recreation; and a Deputy Corporation Counsel.

Your Committee received public testimony in support of the proposed bill from five members of the public, including Jocelyn Bouchard, Chief Executive Officer, Maui Humane Society; and Aimee Anderson, Director of Animal Control, Maui Humane Society. Both testifiers from the Maui Humane Society commented on the need for dog parks, noting that approximately 50,000 people on Maui own dogs. Ms. Anderson expressed her willingness to work with the Department of Parks and Recreation as well as the Department of the Corporation Counsel to recommend revisions to the proposed bill.

The Director of Parks and Recreation stated that her Department has been receiving requests from the public for dog parks for over ten years. She further stated that additional revisions were needed to the proposed bill.

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

October 3, 2008
Page 2

Committee
Report No. 08-122

The Recreation Program Planner stated that the proposed bill was intended to be a starting point to provide leash-free areas for dogs. He further stated that well-crafted Administrative Rules will be the key to the success of this legislation.

Your Committee discussed the financial requirements to implement the proposed bill. Your Committee discussed the issue of liability as well as enforcement options under the various sections of the proposed bill.

The Director and the Recreation Program Planner both stated that the financial impact would be minimal over the short term. The Recreation Program Planner stated that the Department would attempt to address the issue of enforcement through a partnership between the Maui Humane Society and the Department of Parks and Recreation's Park Rangers.

The Deputy Corporation Counsel stated that both Title 6 and Title 13 of the Maui County Code (MCC) contain separate fines and penalties. He stated that he would review the proposed bill to determine whether the bill should be revised to avoid duplicative language.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated August 27, 2008, the Council Chair transmitted correspondence dated August 20, 2008, from the Director of Parks and Recreation, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL, AND AMENDING CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS".

The revised proposed bill makes additional revisions to Chapters 6.04 and 13.04, MCC, in order to address concerns raised by the Director of Parks and Recreation and incorporate recommendations made by the Maui Humane Society.

By correspondence dated September 15, 2008 through September 17, 2008, ten members of the public, including four members of the Upcountry Dog Park Committee, provided testimony in support of the proposed bill. They cited the need for designated dog parks and suggested specific characteristics for such parks, relating to size, construction requirements (i.e., gates, fencing, et cetera), and property management.

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

October 3, 2008
Page 3

Committee
Report No. 08-122

At its meeting of September 17, 2008, your Committee met with the Director of Parks and Recreation; a Recreation Program Planner, Department of Parks and Recreation; and a Deputy Corporation Counsel.

Your Committee received public testimony in support of the revised proposed bill from five people, including Jocelyn Bouchard, Chief Executive Officer, Maui Humane Society; and Liz Suter, Spokesperson, Upcountry Dog Park Committee. One testifier submitted written testimony in conjunction with her oral testimony.

The Director stated that the revised proposed bill reflects work done in cooperation with the community and the Maui Humane Society in order to gain consensus regarding basic parameters for dog parks. She further stated that her Department will continue to work with these parties should the revised proposed bill be passed in order to develop Administrative Rules and designate specific dog park areas.

The Recreation Program Planner stated that the Department had developed its proposal based on the experience of parks departments in other jurisdictions. He stated that this revised proposed bill is the first step to provide for the development of dog parks by the Department of Parks and Recreation.

Your Committee questioned the Department regarding the specific areas being considered for future dog parks.

The Recreation Program Planner stated that the Department will keep your Committee informed as they develop plans for future dog parks. He further stated that no dog park will open until the Administrative Rules are in place.

Your Committee voted to recommend passage of the revised proposed bill and filing of the communication.

Your Public Works and Facilities Committee **RECOMMENDS** the following:

1. That Bill No. _____ (2008), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL, AND AMENDING CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS", be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**; and

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

October 3, 2008
Page 4

**Committee
Report No.**

08-122

2. That County Communication No. 07-302 be FILED.

Adoption of this report is respectfully requested.

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COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
FACILITIES COMMITTEE**

October 3, 2008
Page 5

Committee
Report No.

08-122



BILL KAUAKEA MEDEIROS Co-Chair

DANNY A. MATEO Member



MICHAEL P. VICTORINO Co-Chair

JOSEPH PONTANILLA Member

G. RIKI HOKAMA Member

ORDINANCE NO. _____

BILL NO. _____ (2008)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 6.04,
MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL,
AND AMENDING CHAPTER 13.04, MAUI COUNTY CODE,
RELATING TO RECREATIONAL AREA REGULATIONS

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

SECTION 1. Section 6.04.010, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Dog park" means an enclosed area within a County park that has been designated for use as an off-leash dog area."

SECTION 2. Section 6.04.010, Maui County Code, is amended by amending the definition of "animal control officer" to read as follows:

""Animal control officer" means the person or persons designated by the mayor or his authorized representative to enforce this chapter[.] and section 13.04.040(D) of this code."

SECTION 3. Section 6.04.010, Maui County Code, is amended by amending the definition of "under restraint" to read as follows:

""Under restraint" means kept on real property that is fully enclosed, with the express consent of the property owner; or kept within a kennel or other enclosure with secure sides, top, and bottom; or kept secured by a leash on real property with the express consent of the owner; or kept secured by a leash or lead of not more than [ten] six feet in length held by or tied to a responsible person; or, if in the bed of a truck, secured to prevent the dog from climbing or falling out of the truck bed."

SECTION 4. Section 6.04.040, Maui County Code, is amended by amending subsection A, to read as follows:

"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; [and]

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."

SECTION 5. 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] County or [his] 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 in carrying out this chapter, chapter 6.08, section 13.04.040(D) of this code, and chapter 143 of the Hawaii Revised Statutes."

SECTION 6. Section 13.04.020, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Athletic field" means an enclosed area within a County park that is appropriately marked and set aside to be primarily used for playing a game or sport, including, but not limited to, baseball fields, basketball courts, soccer fields, and tennis courts.

"Dog park" means an enclosed area within a County park that has been designated for use as an off-leash dog area."

SECTION 7. Section 13.04.040, Maui County Code, is amended by amending subsection D, to read as follows:

"D. Regulation on Animals.

1. The director is authorized to set aside areas within parks for horse riding, animal shows, dog parks, and dog obedience classes and trials.

2. Dogs shall be permitted in all parks, provided that while outside the confines of a dog park, [they] the dog shall be [on] secured by a leash[.] or lead of not more than six feet in length held by, or tied to, a responsible person at all times.

3. The owner or handler of a dog shall not tie the dog to a solid object while in a County park.

4. Dogs, except for guide, signal/hearing, and service dogs, as defined in section 6.05.010 of this code, are prohibited on athletic fields.

5. While in any County park, including dog parks, the owner or handler of a dog shall be responsible for the actions of the dog.


6. A dog deemed dangerous under chapter 6.04 of this code shall not be allowed in any dog park.

7. The director shall adopt rules pertaining to dog parks."

SECTION 8. 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 9. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

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