

ORDINANCE NO. 09 113 BILL NO. 115

AN ORDINANCE AMENDING CHAPTER 15 OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION, AS AMENDED) BY ADDING A NEW ARTICLE RELATING TO DOG PARKS.

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

SECTION 1. Chapter 15, Hawai'i County Code 1983 (2005 Edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

"Article __. Dog Parks.

Section 15-__. **Purpose.**

The purpose of this article is to create a policy for establishing County park areas to be used exclusively by dogs and their handlers.

Section 15- . **Definitions.**

For purposes of this article:

"Adult dog" means a dog over twelve months of age.

"Dangerous dog" means any dog that, without provocation, attacks a person or animal. A dog's breed shall not be considered in determining whether or not it is dangerous.

"Dog park" means an enclosed area within a County park that has been designated for use as an off-leash dog area or a park for the exclusive use of dogs and their handlers, and listed in the facility schedule in this article.

"Enforcement Officer" means a police officer or animal control officer.

"Handler" means the person who brought the dog to the dog park and is responsible for the dog. The handler shall either be the owner of the dog or a responsible person that has been permitted by the owner to bring the dog to the dog park.

"Mobility device" means a device used by individuals with mobility impairment for the purpose of locomotion. A mobility device may be powered by the individual or some other source.

"Off-leash area" means the fenced, secured section where the dog is allowed to exercise and train without a leash.

"On-leash area" means any area not included inside the fenced and secured dog park section, the transition areas between the park, or a handler's vehicle and the off-leash area.

"Puppy" means a dog between birth and twelve months of age.

“Shared-use or multi-use park” means a park that has playground equipment, an athletic playing field, or any other use that attracts children and also has a designated dog park on the same property.

Section 15-__. **Applicability**

This article applies to any County-owned and designated dog park or any portion of a multi-use park where an area is designated as a dog park, and is appropriately fenced and signed. Only areas listed in the facility schedule of this article shall be authorized as County dog parks. The provisions of Hawai'i Revised Statutes section 663-9, regarding dog owner liability and Hawai'i County Code, chapter 4, as it relates to dogs, are applicable to all users of designated dog parks.

Section 15-__. **Designation and regulation of dog parks.**

- (a) The director, with the approval of the council, may designate any County park as a shared-use park and allocate an area as an off-leash area for dogs, or authorize a location exclusively for a dog park.
 - (1) In designating County parks for the exclusive use of dogs and their handlers or portions of county parks or areas therein as a shared-use park with an off-leash area, the director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary, actual, or designed use of each park or area.
 - (2) The director shall post signs that notify the public of such off-leash or on-leash areas for dogs and describe or map the park or park areas so designated.
 - (3) Areas for off-leash dogs shall be appropriately fenced.
- (b) If practicable, the director may designate a separate, fenced, and secure section within a dog park to accommodate dogs that weigh twenty pounds or less. In addition, the director may also designate a play and training section for the protection of puppies that shall be similarly segregated and secure from other areas of the dog park.
- (c) The director shall adopt rules pertaining to dog parks.

Section 15-__. **Liability; responsibility of handler.**

- (a) The handler shall be responsible for all actions, behavior, injuries, or damage caused by its dogs while on County park property.
- (b) The handler shall be responsible for removing any feces, vomit or other waste matter produced by its dogs from the park and depositing it in an appropriate container.
- (c) The handler shall keep its dogs on a leash no longer than six feet in length when entering the park and moving the dogs into the off-leash area.
- (d) When in the off-leash area, the handler shall control its dogs by sound or voice command.
- (e) The handlers shall closely supervise minor children that accompany them to the dog park.

- (f) The County is not liable for any injury or harm to any person or dog incurred or caused by any other person or dog entering or remaining in the on-leash or off-leash park. The provisions of Hawai'i Revised Statutes section 663-9, regarding dog owner liability and Hawai'i County Code, chapter 4, as it relates to dogs, are applicable to all users of designated dog parks.
- (g) The director has the right to deny any person or dog access to any or all dog parks in accordance with administrative rules of the department of parks and recreation.

Section 15- __. No Alcohol, Drug Use, Or Food Shall Be Allowed in Dog Parks.

- (a) Alcohol and/or drug use is prohibited in dog parks at all times and the handler shall not be under the influence of alcohol or drugs while escorting, transiting, or training a dog in a dog park subject to the provisions of this article as well as other State and County codes for violations.
- (b) Absolutely no food, including dog food or treats, shall be allowed in the off-leash area.

Section 15- __. Noise-producing devices prohibited.

- (a) Due to the need for each handler to keep its dog under voice and sound control within the dog park, the use of any noise-producing devices including radios, television sets, musical instruments, boom boxes, electric generating plants, or other equipment driven by motors or engines is prohibited in a dog park or in a shared-use park where a designated area for a dog park exists, or at the discretion of the director.
- (b) This section shall not prohibit the use of equipment for law enforcement or custodial maintenance purposes, or the use of mobility devices in a dog park.

Section 15- __. Current dog vaccinations required.

- (a) To protect all dogs using a dog park, each handler shall keep its dog's vaccination current and provide documentation of such to enforcement officers, upon request. Documentation shall consist of medical records, vaccine certificates, and/or receipts. Each dog shall have required vaccinations against common infectious diseases, be free of internal parasites, and be treated for ticks and other external parasites before entering a dog park.
- (b) Required vaccinations:
 - (1) Distemper virus
 - (2) Infectious Canine Heparitus
 - (3) Leptospirosis
 - (4) Parvo virus

- (c) Recommended, but non-essential vaccinations:
 - (1) Parinfluenza
 - (2) Bordetella

Section 15-___, Handler's responsibilities; control of dogs.

- (a) Any dog transiting to and from the handler's vehicle or outside the designated off-leash area shall be on a leash no longer than six feet.
- (b) The handler shall carry a leash no longer than six feet for each dog in its care in the off-leash area.
- (c) The handler shall not bring more than two dogs into the off-leash area at any one time.
- (d) To prevent injury, the handler shall remove pinch or choke collars from the dog when it is in the off-leash area.
- (e) For health and safety reasons:
 - (1) A handler shall not bring a puppy under the age of sixteen weeks into any dog park.
 - (2) Female dogs in estrus shall be prohibited from entering any on-leash or off-leash parks.
 - (3) When any dog is in the off-leash area, the handler shall remain in the off-leash area to supervise its dogs, and keep the dogs within view and under verbal, sound, or signal control at all times.
 - (4) Each handler in the off-leash section shall be at least eighteen years of age. Minor children entering the off-leash section shall be accompanied by an adult.
 - (5) All dogs shall have a valid dog license tag attached to the dog's collar while in the dog park.
 - (6) The handler shall comply with all other dog park rules, as established by the director and posted in an easily visible location of each dog park.

Section 15-___, Dog behavior.

- (a) The handler shall ensure that its dogs demonstrate appropriate social interaction at all times toward people and other dogs.
- (b) Dogs displaying aggressive behavior toward people or other dogs shall be immediately leashed and removed from the off-leash area, out of the dog park, and any other portion of the County park.
- (c) The provisions and penalties set forth in chapter 4, article 4, section 4-31, Regulation of dangerous dogs, are applicable to this article. In addition to the penalty provisions set forth in that section, any enforcement officer may also issue a trespass notice against the handler of any dog that is dangerous or vicious toward any other dog or person.

Section 15-___, Dog park entry requirements; fees.

- (a) Each dog entering a dog park shall have a dog license tag pursuant to Hawai'i County Code, chapter 4, article 3. The dog license tag shall be

attached to the dog's collar, and such collar shall remain on the dog at all times while in the dog park or moving to or from the dog park.

- (b) Each dog entering a dog park shall wear an individual dog park entry tag indicating that the annual dog park entry fee has been paid to the County or the County's designated representative. Payment of the annual dog park entry fee entitles the handler to a single, colorized dog park entry tag applicable only to the dog to whom it was issued. The dog park entry tag shall be colored by calendar year. There shall be a one month's grace period (January) during which time a dog may still have the dog park entry tag for the previous calendar year. The dog park entry tag allows the authorized dog to enter any county dog park unless the handler has been issued a trespass notice against personally entering a dog park or against that particular dog.
- (c) Dog park entry tag fees:
 - (1) Each puppy\$5
(No pictures shall be required. Includes the administrative fee.)
 - (2) Initial adult dog park entry application, per dog \$25
(Initial application shall include pictures of both sides and the face of the dog. Includes the administrative fee.)
 - (3) Renewal fee for an adult dog, per dog\$10
(Does not require additional pictures or an additional dog license tag for identification purposes. Includes the administrative fee.)
 - (4) Administrative fee.....\$5
- (d) If the ownership of the dog changes, the new owner shall complete an application, have new dog pictures taken, and pay the administrative fee to the County or the County's designated representative to transfer ownership of the dog and its dog park entry tag.
- (e) All fees shall be paid to the County of Hawai'i within thirty days and deposited in the general fund of the County of Hawai'i.

Section 15-__. **Violation of regulations; penalties.**

- (a) Each separate violation of the provisions of this article is a violation and upon conviction, shall be punished by a fine not to exceed \$1,000. Conduct that is proscribed under Hawai'i County Code, chapter 4, article 4, as it relates to dogs, shall be enforced under that chapter.
- (b) Failure to have a current dog license tag on the dog's collar when entering a dog park constitutes a violation of this article.
- (c) Failure to have a current dog park entry tag on the dog's collar when entering a dog park constitutes a violation of this article. In addition to any penalty, the owner shall pay the dog park entry tag fee for that calendar year.
- (d) Failure to maintain current vaccinations for a dog entering a dog park constitutes a violation of this article. Medical records, vaccination certificates, and/or receipts showing current vaccination shall be provided by the handler upon request of the enforcement officer.
- (e) All fines collected under this article shall be deposited within thirty days into the general fund of the County of Hawai'i.

- (f) A one-year, no-trespassing notice against a person or dog may be issued by an enforcement officer for any violation of this article or any violation of posted park rules. A court of competent jurisdiction may extend the no-trespass period of time beyond one year for any violation of any section this article.

Section 15-__. **Dog park facility schedule.**

All dog parks shall be named by ordinance and added to the following facilities schedule:

Dog Parks

Hāmākua

Hilo

Kaū

Kohala

Kona

Puna

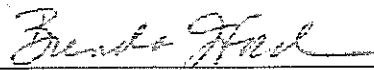
Section 15-__. **Severability.**

If any provision of this article is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article."

SECTION 2. 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 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i
Date of Introduction: August 19, 2009
Date of 1st Reading: August 19, 2009
Date of 2nd Reading: September 2, 2009
Effective Date: September 23, 2009

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Kona, Hawai'i

Introduced By: Brenda J. Ford
Date Introduced: August 19, 2009
First Reading: August 19, 2009
Published: August 29, 2009

REMARKS: _____

Second Reading: September 2, 2009
To Mayor: September 11, 2009
Returned: September 23, 2009
Effective: September 23, 2009
Published: September 30, 2009

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeea	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeea	X			
Naeole	X			
Onishi			X	
Yagong	X			
Yoshimoto	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 9/18/09

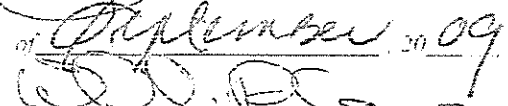


COUNCIL CHAIRMAN



COUNTY CLERK

Bill No.: 115
Reference: C-448/PSPRC-14
Ord No.: 09 113

Approved/Disapproved this 23rd day
of September, 2009

MAYOR, COUNTY OF HAWAII