

Chapter 7

ANIMALS AND FOWL

Articles:

1. **Cockfighting and Related Equipment**
2. **Animal Nuisances**
3. **Dog License**
4. **Regulation of Dogs**
5. **Public Spay and Neuter Clinic for Dogs and Cats**
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Article 1. Cockfighting and Related Equipment

Sections:

- 7-1.1 **Prohibited.**
7-1.2 **Gaffs or slashers prohibited.**
7-1.3 **Violation--Penalty.**

Sec. 7-1.1 **Prohibited.**

It is unlawful for any person to engage or participate in any cockfighting exhibition. (Sec. 13-2.1, R.O. 1978 (1983 Ed.); Am. Ord. 01-58)

Sec. 7-1.2 **Gaffs or slashers prohibited.**

It is unlawful for any person to manufacture, buy, sell, barter, exchange or have in such person's possession any of the implements commonly known as gaffs or slashers, or any other sharp instrument designed to be attached in place of or to the natural spur of a gamecock or other fighting fowl. (Sec. 13-2.2, R.O. 1978 (1983 Ed.))

Sec. 7-1.3 **Violation--Penalty.**

Any person violating any provision of this article shall be punished by a fine of not less than \$250 and not exceeding \$1,000 or by imprisonment not exceeding thirty days, or by both. (Sec. 13-2.3, R.O. 1978 (1983 Ed.); Am. Ord. 01-58)

Article 2. Animal Nuisances

Sections:

- 7-2.1 **Purpose.**
7-2.2 **Definitions.**
7-2.3 **Animal nuisance--Prohibited.**
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7-2.10 **Penalties.**
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Sec. 7-2.1 **Purpose.**

The purpose of this article is to establish an owner's responsibility for the keeping of animals, farm animals or poultry on a noncommercial basis and in a manner which will not endanger or unreasonably interfere with the public health, welfare, safety, peace or comfortable enjoyment of life and property. (Added by Ord. 90-55)

Sec. 7-2.2 **Definitions.**

"Animal control contractor" means the duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the city to perform animal control services.

"Animal nuisance," for the purposes of this section, shall include but not be limited to any animal, farm animal or poultry which:

- (a) Makes noise continuously and/or incessantly for a period of 10 minutes or intermittently for one-half hour or more to the disturbance of any person at any time of day or night and regardless of whether the animal, farm animal or poultry is physically situated in or upon private property;
- (b) Barks, whines, howls, crows, cries or makes any other unreasonable noise as described in Section 7-2.4 (c) of this article; or
- (c) Notwithstanding the provisions of HRS Section 142-75 or any other applicable law, bites or stings a person.

"Animals," unless provided otherwise, include but are not limited to those animals that are customary and usual pets such as dogs, cats, rabbits, birds, honeybees and other beasts which are maintained on the premises of a dwelling unit and kept by the resident of the dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property; excluding aviary game birds and fish as defined in the Hawaii Revised Statutes.

"Enclosure" means any kennel, coop, cage, hutch, hive or other structure used to care for, breed, house or keep animals, farm animals or poultry.

"Farm animals" means pigs, cows, goats, sheep, horses, camels and llamas.

"Owner" means any person owning, harboring or keeping animals, farm animals or poultry, whether licensed or not, or having custody, whether temporary or permanent thereof.

"Person" means and includes corporations, estates, associations, partnerships and trusts, as well as one or more individual human beings.

"Poultry" means chickens, pigeons, turkeys, geese, ducks and peafowl not regulated by state law.

"Zoning lot" and "lot area" are as defined in Chapter 21, ROH 1990. (Added by Ord. 90-55; Am. Ord. 00-73, 04-42)

Sec. 7-2.3 Animal nuisance--Prohibited.

It is unlawful to be the owner of an animal, farm animal or poultry engaged in animal nuisance as defined in Section 7-2.2; provided, however, that it shall not be deemed to be animal nuisance for purposes of this article if, at the time the animal, farm animal or poultry is making any noise, biting or stinging, a person is trespassing or threatening trespass upon private property in or upon which the animal, farm animal or poultry is situated, or for any other legitimate cause which teased or provoked said animal, farm animal or poultry. (Added by Ord. 90-55)

Sec. 7-2.4 General requirements.

- (a) Nothing in this article applies to animals, farm animals or poultry raised, bred or kept as a commercial enterprise or for food purposes where commercial kennels or the keeping of livestock is a permitted use.
- (b) Enclosures for animals, farm animals and poultry shall meet all applicable zoning and building code requirements for structures; shall not be located within any required front, side or rear yard setback; and shall meet all other applicable sanitation requirements.
- (c) Noise is unreasonable within the meaning of this article if considering the nature and the circumstances surrounding the animal nuisance, including the nature of the location and the time of the day or night, it interferes with reasonable individual or group activities such as, but not limited to, communication, work, rest, recreation or sleep; or the failure to heed the admonition of a police officer or a special officer of the animal control contractor that the noise is unreasonable and should be stopped or reduced.

(Added by Ord. 90-55; Am. Ord. 00-73, 02-54)

Sec. 7-2.5 Special requirements.

- (a) Farm animals. Enclosures for farm animals shall not be located within 300 feet of any property line.
- (b) Honeybees. There shall be no more than eight honeybee hives per zoning lot and the keeping of honeybees shall be in accordance with the following:
 - (1) Colonies shall be maintained in movable frame hives, constructed to meet the specifications for "beehives" set by the American Beekeepers Federation;
 - (2) Hives shall be properly shaded from adjacent night lighting on adjoining properties;
 - (3) Hives shall not be located within 25 feet of any property line, public street, sidewalk or alley except:
 - (A) When situated behind a solid fence or hedge at least six feet in height, parallel to the property line, and extending at least 15 feet beyond the hive in both directions, or
 - (B) When located at least eight feet or more above adjacent ground level.
- (c) Dogs. The number, four months of age or older, shall not exceed 10 per household.
- (d) Chickens and peafowl. The number of chickens or peafowl shall not exceed two per household.

(Added by Ord. 90-55; Am. Ord. 04-42)

Sec. 7-2.6 Complaint forms for private citizens.

The animal control contractor, in consultation with the Honolulu police department, shall develop a complaint form with respect to the keeping of animals, farm animals or poultry. The form may be obtained by private citizens from the animal control contractor or the department of customer services. (Added by Ord. 90-55; Am. Ord. 00-73)

Sec. 7-2.7 Summons or citation.

Any authorized police officer, or any officer of the animal control contractor who has been deputized by the chief of police as a special officer for the purpose of enforcing the provisions of this article, may issue a summons or citation to an alleged violator of the provisions of this article. Procedures with respect to the design, form, content, numbering and disposition of copies of said summons or citation shall be in all respects the same as those specified in Section 7-4.6, relating to summonses in connection with stray dogs. Said summons or citation shall instruct such person to report to the violations bureau of the respective district courts of the City and County of Honolulu. Each such person may, within seven days after the receipt of such summons, appear at such violations bureau and post a bail bond, in such amounts as may be set by the administrative judge of the district courts, for appearance on the date as may be set out for such person to appear before the district court. Upon failure to appear upon such date, said bail bond shall be deemed forfeited. (Added by Ord. 90-55; Am. Ord. 00-73)

Sec. 7-2.8 Failure to obey summons or citation.

It is unlawful for any person to fail to appear at the place and within the time specified in the summons issued to such person by an officer for any violation of this article, regardless of the disposition of the charge for which such person was originally cited. (Added by Ord. 90-55)

Sec. 7-2.9 Issuance of complaint.

In the event any person fails to comply with a summons given such person or if any person fails or refuses to deposit bail as required and within the time permitted, the violations bureau shall forthwith have a complaint entered against such person and secure the issuance of a warrant for such person's arrest. (Added by Ord. 90-55)

Sec. 7-2.10 Penalties.

(a) Any owner who keeps or permits an enclosure or animal, farm animal, or poultry to remain on the owner's premises in violation of this article shall be deemed to commit an offense under this article. Notwithstanding the foregoing, an enforcing officer may, in the officer's discretion, issue a warning letter to the owner of a dog that is believed by the officer to be an animal nuisance under Section 7-2.2(a) or (b) in lieu of citing the owner for a first offense under those provisions. As used in this subsection, first offense means an offense that does not occur within two years of the occurrence of a previous offense involving the same provision.

(b) An owner convicted of an offense shall be sentenced as follows:

- (1) A fine of \$50 if the offense did not occur within two years of the occurrence of a previous offense involving the same provision;
- (2) A fine of \$100 if the offense occurred within two years of the occurrence of one previous offense involving the same provision; or
- (3) A fine of not less than \$500 nor more than \$1,000, imprisonment not exceeding 30 days, or both, if the offense occurred within two years of the occurrence of two or more previous offenses involving the same provision. In lieu of a term of imprisonment, the court may order the defendant to serve a period of probation of not more than six months in accordance with the procedures, terms and conditions provided in HRS Chapter 706, Part II.

The fines provided for in this section shall be imposed without the possibility of suspension.

As part of the sentence for any offense, the court also may order the owner to attend a training program conducted or designated by the animal control contractor or train an animal, farm animal, or poultry in a manner recommended by the contractor to stop the animal nuisance which caused the offense. The cost of attending any training program conducted or designated by the animal control contractor shall be paid for by the owner.

(c) For the purpose of this section:

- (1) "Provision" means a prohibition or requirement under a section or subsection listed in the following: Section 7-2.3, Section 7-2.4(b), Section 7-2.5(a), Section 7-2.5(b), Section 7-2.5(c), or Section 7-2.5(d);
- (2) An offense shall be deemed to have occurred on the date of the summons or citation identifying the offense; and
- (3) A person who commits an offense within two years of the occurrence of a previous offense involving the same provision shall be subject to the escalating penalty of subsection (b)(2) or (3),

even if the enclosures or animals involved in the offenses differed.

(Added by Ord. 90-55; Am. Ord. 00-73)

Sec. 7-2.11 Annual report required.

The animal control contractor shall render a full report of its activities and operations relating to the enforcement of this article to the mayor and the council within one month after the end of each fiscal year. (Added by Ord. 90-55; Am. Ord. 00-73)

Sec. 7-2.12 Severability.

If any provision of this article is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article. (Added by Ord. 90-55)

Article 3. Dog License

Sections:

- 7-3.1 License fee.**
- 7-3.2 Disposition of fee.**
- 7-3.3 Impoundment of unlicensed dogs.**

Sec. 7-3.1 License fee.

- (a) The biennial license fee for dogs over four months through seven months of age and for neutered dogs eight months of age and over with veterinary certificate shall be \$9.50; \$28.00 for unneutered dogs eight months of age or over. Upon receipt of the license fee, the director of finance shall issue a metal tag of such form and design as the director may designate with a serial number and the year for which it is issued inscribed thereon, charging therefor the sum of 50 cents, which tag shall be attached to a collar of the dog for which the license has been issued.
 - (b) If the license fee is not paid when due, a penalty of 10 percent thereof shall be added to and become part of the fee.
 - (c) The full amount of the fee shall be paid for any fraction of any year for which a license is issued.
- (Sec. 13-33.1, R.O. 1978 (1983 Ed.); Am. Ord. 92-69, 95-33)

Sec. 7-3.2 Disposition of fee.

All moneys received by the director of finance under this article shall be paid into the general fund of the City and County of Honolulu. (Sec. 13-33.2, R.O. 1978 (1983 Ed.))

Sec. 7-3.3 Impoundment of unlicensed dogs.

Impoundment of unlicensed dogs shall be as provided in HRS Section 143-8. (Sec. 13-33.3, R.O. 1978 (1983 Ed.))

Article 4. Regulation of Dogs

Sections:

- 7-4.1 Definitions.**
- 7-4.2 Strays prohibited.**
- 7-4.3 Impounding.**
- 7-4.4 Applicability.**
- 7-4.5 Enforcement.**
- 7-4.6 Summons.**
- 7-4.7 Failure to obey summons.**
- 7-4.8 Issuance of complaint.**
- 7-4.9 Violation--Penalty.**
- 7-4.10 Disposition of fines and forfeitures.**
- 7-4.11 Severability.**

Sec. 7-4.1 Definitions.

As used in this article, unless the context otherwise indicates:

“Animal control contractor” means the duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the city to perform animal control services.

“Handler” means any owner with a disability having custody of a service dog.

“Off-leash park” means a public park designated by the director of parks and recreation where dogs, and no other animal, shall be allowed to be off-leash.

“Owner” means and includes every person owning, harboring or keeping a dog or having custody thereof.

“Service dog” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service dog must be directly related to the handler’s disability.

“Stray” or “stray dog” means any dog: (1) on the premises of a person other than the owner of the dog, without the consent of an occupant of such premises; or (2) on a public street, on public or private school grounds, or in any other public place, except when under the control of the owner by leash, cord, chain or other similar means of physical restraint; provided, that such leash, cord, chain or other means is not more than eight feet in length; and provided further, that this provision shall not be construed to permit that which is prohibited by any other law.

(Sec. 13-23.1, R.O. 1978 (1983 Ed.); Am. Ord. 00-68, 01-43, 11-1)

Sec. 7-4.2 Strays prohibited.

It shall be unlawful for the owner of any dog, whether such dog is licensed or not, to permit such dog to become a stray. (Sec. 13-23.2, R.O. 1978 (1983 Ed.); Am. Ord. 00-68)

Sec. 7-4.3 Impounding.

- (a) Any dog, while being a stray, shall be seized and impounded by the animal control contractor or any other officer authorized by law and shall be disposed of in accordance with the provisions of HRS Chapter 143. A special officer of the animal control contractor shall be authorized to enforce this article if deputized by the chief of police to do so.
- (b) Any impounded dog shall be spayed or neutered by the animal control contractor prior to its adoption unless a veterinarian certifies that the dog is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the dog.

(Sec. 13-23.3, R.O. 1978 (1983 Ed.); Am. Ord. 00-68, 07-33)

Sec. 7-4.4 Applicability.

The provisions of this article shall not apply to:

- (a) Licensed dogs functioning as service dogs under control of their handlers. A service dog under control of its handler shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or use of a harness, leash, or other tether would interfere with the service dog’s safe, effective performance of work or tasks, in which case the service dog shall be otherwise under the handler’s control (e.g., voice control, signals, or other effective means); or
- (b) Licensed dogs trained and used by the police department of the City and County of Honolulu or other law enforcement agencies in law enforcement work while such dogs are engaged in the performance of such work; or
- (c) Licensed hunting dogs when accompanied by their owner on public or private hunting and/or shooting grounds; or
- (d) Licensed obedience trial, tracking and show dogs accompanied by their owner and being trained or in competition in public parks or school grounds, provided permission is first obtained from the proper park or school authorities for such use; or
- (e) Licensed dogs when accompanied by persons eighteen years of age or older having custody and control of the dogs and located in a public park or in an area in a public park designated by a sign that the public park or area has been designated by the director of parks and recreation for use by dogs and persons having custody and control of the dogs pursuant to the provisions of Section 10-1.7.

(Sec. 13-23.4, R.O. 1978 (1983 Ed.); Am. Ord. 01-43, 11-1)

Sec. 7-4.5 Enforcement.

For any violation of any of the provisions of this article or of the provisions of HRS Chapter 143, it shall be the duty of any police officer and any other officer authorized to seize and impound any dog running at large within the meaning of this article to issue a summons to the owner or other person charged with the responsibility of complying with the provisions of this article or with the provisions of HRS Chapter 143. Said summons shall instruct such owner or person to report at the violations bureau of the respective district courts of the City and County of Honolulu. Each such owner or person may, within seven days after the receipt of such summons, appear at such violations bureau and post a bail bond, in such amounts as may be set by the administrative judge of the district courts, for appearance on the date as may be set for such person to appear before the district court. Upon failure to appear upon such date said bail bond shall be deemed forfeited. (Sec. 13-23.5, R.O. 1978 (1983 Ed.))

Sec. 7-4.6 Summons.

- (a) There shall be provided for use by officers authorized to enforce laws relating to the regulation and control of dogs, a form of summons for use in citing violators of the provisions of this article or the provisions of HRS Chapter 143. Said summons shall be printed in a form commensurate with the form of other summonses used in modern methods of arrest, so designed to include all necessary information to make the same valid and legal within the laws and regulations of the State of Hawaii and the City and County of Honolulu. The form and content of such summons shall be as adopted or prescribed by the administrative judge of the district courts.
- (b) In every case when a summons is issued, the original of the same shall be given to the violator; provided, that the administrative judge of the district courts may prescribe the giving to the violator of a carbon copy of the summons, and provide for the disposition of the original and any other copies.
- (c) Every summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.
- (Sec. 13-23.6, R.O. 1978 (1983 Ed.))

Sec. 7-4.7 Failure to obey summons.

It is unlawful for any person to fail to appear at the place and within the time specified in the summons issued to such person by an officer for any violation of any section of this article, regardless of the disposition of the charge for which such person was originally cited. (Sec. 13-23.7, R.O. 1978 (1983 Ed.))

Sec. 7-4.8 Issuance of complaint.

In the event any person fails to comply with a summons given to such person or if any person fails or refuses to deposit bail as required and within the time permitted, the violations bureau shall forthwith have a complaint entered against such person and secure the issuance of a warrant for such person's arrest. (Sec. 13-23.8, R.O. 1978 (1983 Ed.))

Sec. 7-4.9 Violation--Penalty.

- (a) The owner of a dog which has become a stray or any other person convicted of a violation of this article shall be punished for the offense as follows:
- (1) A fine of \$50 if the offense did not occur within two years of the occurrence of a previous offense under this article;
 - (2) A fine of \$100 if the offense occurred within two years of the occurrence of one previous offense under this article; or
 - (3) A fine of not less than \$500 nor more than \$1,000, imprisonment not exceeding 30 days, or both, if the offense occurred within two years of the occurrence of two or more previous offenses under this article or if the person convicted has a previous conviction under Section 7-7.2 involving the same dog.
- (b) For the purpose of this section:
- (1) An offense shall be deemed to have occurred on the date of the summons or citation identifying the offense; and
 - (2) A person who commits an offense within two years of the occurrence of a previous offense shall be subject to the escalating fine of subsection (a), even if the dogs involved in the offenses differed.
- (Sec. 13-23.9, R.O. 1978 (1983 Ed.); Am. Ord. 00-68, 05-007)

Sec. 7-4.10 Disposition of fines and forfeitures.

All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of this article shall be paid into the city and county treasury and deposited in the general fund of the city and county. (Sec. 13-23.10, R.O. 1978 (1983 Ed.))

Sec. 7-4.11 Severability.

If any provision of this article is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article. (Sec. 13-23.11, R.O. 1978 (1983 Ed.))

Article 5. Public Spay and Neuter Clinic for Dogs and Cats

Sections:

7-5.1 Authority for clinic and fees.

Sec. 7-5.1 Authority for clinic and fees.

- (a) The City and County of Honolulu is authorized and empowered to establish a clinic, through a fee-for-service contract, at which members of the public may have dogs and cats spayed or neutered in a humane manner. Except as provided in subsections (b) and (c), members of the public shall pay either the following fees or the cost to the city under the fee-for-service contract for services performed, whichever is less:
 - (1) For spaying a female dog, \$150.00.
 - (2) For spaying a female cat, \$50.00.
 - (3) For neutering a male dog, \$125.00.
 - (4) For neutering a male cat, \$40.00.
- (b) A member of the public who has been issued an EBT card shall pay a fee of \$20.00 for the spaying of a female dog or cat or the neutering of a male dog or cat. For the purpose of this subsection, an "EBT card" means a card issued by the state department of human services that will allow the holder to access social service benefits in an electronic benefit transfer account.
- (c) In addition to the fees established in subsections (a) and (b), a veterinarian may charge additional fees for spaying or neutering the following types of animals:
 - (1) Cats or dogs older than 3 years of age; and
 - (2) Dogs weighing over 45 pounds.
 The veterinarian shall inform the animal owner of any additional charges prior to accepting an animal for spay or neuter surgery.
- (d) The veterinarian shall conduct an examination prior to spay or neuter surgery to determine that the animal is healthy and medically fit to undergo surgery. The veterinarian's decision regarding the animal's fitness for surgery shall be final.

(Sec. 13-39.1, R.O. 1978 (1987 Supp. to 1983 Ed.); Am. Ord. 92-72, 95-34, 03-14, 10-1)

Article 6. Cat Identification Program

Sections:

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| 7-6.1 | Definitions. |
| 7-6.2 | Identification required. |
| 7-6.3 | Owner--Exception. |
| 7-6.4 | Removal of cat identification. |
| 7-6.5 | Cats released to the animal control contractor. |
| 7-6.6 | Sterilization of cats. |
| 7-6.7 | Enforcement. |
| 7-6.8 | Penalty. |

Sec. 7-6.1 Definitions.

For the purposes of this article:

"Animal control contractor" means the duly incorporated humane society or organization formed for the prevention of cruelty to animals which is contracted by the city to perform animal control services.

"At large" means: (1) On the premises of a person other than an owner of the cat, without the consent of an occupant or owner of such premises, or (2) on a public street, on public or private school grounds, or in any other public place, except when under the control of an owner by leash, cord, chain or other similar means of physical restraint that is not more than eight feet in length.

"Identification" means: (1) a collar or tag worn by a cat which includes the current name, address and telephone number of the owner, or (2) an ear tag issued by the animal control contractor, or (3) a microchip registering the owner with the National Computer Recovery Network or the animal control contractor.

"Impounded cat" means any cat released to or under the custody of or control of the animal control contractor.

"Person" includes corporations, estates, associations, partnerships and trusts, and one or more individual human beings.

(Added by Ord. 95-21; Am. Ord. 02-54)

Sec. 7-6.2 Identification required.

It shall be unlawful for any person to be an owner of a cat over six months of age unless the person maintains an identification worn by the cat. This section shall not apply to cats in quarantine and cats brought into the city exclusively for the purpose of entering them in a cat show or cat exhibition and not allowed to be at large. (Added by Ord. 95-21)

Sec. 7-6.3 Owner--Exception.

"Owner" means any person owning, harboring or keeping, or providing care or sustenance for a cat, whether registered or not, or having custody of a cat, whether temporarily or permanently. This definition shall not apply to any person who has notified the animal control contractor of the cat at large that the person has taken into possession and:

- (1) Who is or will be transporting the cat to the animal control contractor; or
- (2) Who has made arrangements with the animal control contractor to have the cat picked up by the animal control contractor.

(Added by Ord. 95-21; Am. Ord. 02-54)

Sec. 7-6.4 Removal of cat identification.

It shall be unlawful for any person other than an officer of or a person authorized by the animal control contractor to remove any identification from any cat not owned by the person. (Added by Ord. 95-21; Am. Ord. 02-54)

Sec. 7-6.5 Cats released to the animal control contractor.

- (a) Any person who takes into the person's possession any cat at large shall immediately notify the animal control contractor and shall release the cat to the animal control contractor upon request.
- (b) In the case of any cat released to the animal control contractor wearing an identification, the animal control contractor shall make a reasonable attempt to notify the owner by telephone, and shall send written notice to the owner. The cat shall be held by the animal control contractor for not less than nine days, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if not sooner recovered by the owner. An owner wishing to recover the cat shall pay a daily impoundment fee of \$2.50 for each full day, or fraction thereof, that the cat is held by the animal control contractor.
- (c) In the case of any cat released to the animal control contractor not wearing an identification, the animal control contractor shall hold the cat for not less than 48 hours, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if not sooner recovered by a person claiming ownership. If a person claiming ownership seeks to recover the cat, the person shall pay a daily impoundment fee of \$2.50 for each full day, or fraction thereof, that the cat is held at the animal control contractor.
- (d) Any cat released to the animal control contractor with a "notched ear," indicative of a sterilized feral cat, shall be held at the animal control contractor for not less than nine days, after which time the animal control contractor may return the cat to the person who had released the cat to the animal control contractor, offer the cat for adoption, or euthanize the cat, if not sooner recovered by a person claiming ownership. If a person claiming ownership seeks to recover the cat, the person shall pay a daily impoundment fee of \$2.50 for each full day, or fraction thereof, that the cat is held at the animal control contractor.
- (e) If a cat released to the animal control contractor is not recovered by the owner, the person who had released the cat to the animal control contractor shall have the right of first refusal for permanent custody and ownership of the cat.
- (f) Any impounded cat shall be spayed or neutered by the animal control contractor prior to its adoption unless a veterinarian certifies that the cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the cat.

(Added by Ord. 95-21; Am. Ord. 02-54, 07-33)

Sec. 7-6.6 Sterilization of cats.

It shall be unlawful for a cat owner to allow a cat over the age of six months to be at large unless the cat has been sterilized by a veterinarian. (Added by Ord. 95-21)

Sec. 7-6.7 Enforcement.

An impounded cat for which an identification is not maintained by an owner may not be released by the animal control contractor to a person claiming ownership of the cat until the owner complies with the identification requirements of this article. If an impounded cat, with or without identification, has not been sterilized, the person claiming ownership may be cited by an officer of the animal control contractor for a violation of Section 7-6.6. The penalty for violating Section 7-6.6 shall be waived upon proof of sterilization of the cat by a veterinarian furnished to the animal control contractor within 30 days after the date the citation was issued. (Added by Ord. 95-21; Am. Ord. 02-54)

Sec. 7-6.8 Penalty.

Any person found guilty of violating any of the provisions of this article shall be fined not more than \$100.00. (Added by Ord. 95-21)

Article 7. Regulation of Dangerous Dogs

Sections:

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| 7-7.1 | Definitions. |
| 7-7.2 | Prohibited acts—Conditions on owner—Penalties. |
| 7-7.3 | Citation and summons—Seizure—Relinquishment of ownership. |
| 7-7.4 | Inspection. |
| 7-7.5 | Exemption. |
| 7-7.6 | Civil action not precluded. |
| 7-7.7 | Severability. |
| 7-7.8 | Mandatory reporting of dog bites. |

Sec. 7-7.1 **Definitions.**

Wherever used in this article, unless a different meaning clearly appears from the context:

"Animal" means any "animal," "farm animal" or "poultry" as those terms are defined in Section 7-2.2.

"Attack" means aggressive physical contact with a person or animal initiated by the dog which may include, but is not limited to, the dog jumping on, leaping at or biting a person or animal.

"Bodily injury" means the same as that term is defined in HRS Section 707-700.

"City animal control service" means the animal control services provider contracted by the city to keep stray or unlicensed dogs.

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

"Enforcement officer" means any person authorized and designated to enforce the provisions of this article.

"Negligently" shall have the same meaning as is ascribed to the term in HRS Section 702-206.

"Owner" means any person owning, harboring or keeping a dog; provided that if the owner is a minor under the age of 18 years, the parents, guardian or other person having the care, custody or control of the minor shall be rebuttably presumed to be the owner. The person to whom a license was issued pursuant to HRS Section 143-2 shall rebuttably be presumed to be the owner of the dog for purposes of this section.

"Provocation" means the attack by a dog upon a person or animal was precipitated under the following circumstances:

- (1) The dog was protecting or defending its owner or a member of its owner's household from an attack or assault;
- (2) The person attacked was committing a crime or offense while on the property of the owner of the dog;
- (3) The person attacked was teasing, tormenting, abusing or assaulting the dog or at any time in the past had teased, tormented, abused or assaulted the dog;
- (4) The dog was attacked or menaced by the animal or the animal was on the property of the owner of the dog;
- (5) The dog was responding to pain or injury inflicted by the attacked person or animal;
- (6) The dog was protecting itself, its kennels or its offspring from the attacked person or animal;
- (7) The person or animal attacked was disturbing the dog's natural functions, such as sleeping or eating, while the dog was on its owner's property; or
- (8) The dog was responding to a command or encouragement to attack the person or animal.

"Serious injury" to a domestic animal means physical injury to the animal involving a broken bone, a laceration requiring multiple stitches, a concussion, or a tearing or rupture of an organ.

(Added by Ord. 00-72; Am. Ord. 02-05)

Sec. 7-7.2 **Prohibited acts—Conditions on owner—Penalties.**

- (a) A dog owner commits the offense of negligent failure to control a dangerous dog, if the owner negligently fails to take reasonable measures to prevent the dog from attacking, without provocation, a person or animal and such attack results in: (1) the maiming or causing of serious injury to or the destruction of an animal or (2) bodily injury to a person other than the owner. A person convicted under this subsection shall be guilty of a petty misdemeanor for a first offense and a misdemeanor for a subsequent offense and sentenced in accordance with subsections (c), (d), and (e).

- (b) For the purposes of this section, “reasonable measures to prevent the dog from attacking” shall include but not be limited to: (1) measures required to be taken under Article 4 of this chapter to prevent the dog from becoming a stray; and (2) any conditions imposed by the court for the training of the dog or owner or for the supervision, confinement or restraint of the dog for a previous conviction under this section.
- (c) A dog owner convicted under subsection (a) shall be sentenced to the following without possibility of suspension of sentence:
- (1) A fine of not less than \$500 nor more than \$2,000; except that if the offense occurred within five years of a previous conviction under this section, a fine of not less than \$1,000 nor more than \$2,000;
 - (2) A period of imprisonment of up to 30 days, or in lieu of imprisonment, a period of probation of not more than six months in accordance with the procedures, terms and conditions provided in HRS Chapter 706, Part II; except that if the offense occurred within five years of a previous conviction under this section, a period of imprisonment of up to six months, or in lieu of imprisonment, a period of probation of not more than one year;
 - (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog where the individual suffers financial losses or medical expenses due to the attack. For the purposes of this subsection, medical expenses may include the costs of necessary counseling or rehabilitative services; and
 - (4) Payment of all expenses for the boarding and retention of the dog if seized and impounded pursuant to Section 7-7.3(a).
- (d) Unless the dog has been or is ordered to be humanely destroyed, the dog owner shall also be sentenced to the following mandatory provisions, in addition to the provisions of subsection (c):
- (1) The owner shall provide the owner’s name, address and telephone number to the city animal control service;
 - (2) The owner shall provide the location at which the dog is currently kept, if such location is not the owner’s address;
 - (3) The owner shall promptly notify the appropriate animal control service of:
 - (A) Any changes in the ownership of the dog or the location of the dog along with the names, addresses and telephone numbers of new owners or the new address at which the dog is located;
 - (B) Any further instances of an attack by the dog upon a person or an animal;
 - (C) Any claims made or lawsuits brought as a result of further instances of an attack by the dog; or
 - (D) The death of the dog;
 - (4) The owner shall obtain a license for the dog pursuant to HRS Section 143-2, if the dog is not currently licensed;
 - (5) Unless already identified by microchip, the dog shall be permanently identified, at the owner’s expense, by injecting into the dog an identification microchip using standard veterinary procedures and practices. The microchip identification number of the dog shall be provided to the city animal control service; and
 - (6) When outside the owner’s premises, the dog shall be attended and kept on a leash no longer than four feet in length and under the control of a person 18 years of age or older.
- (e) In addition to the provisions of subsections (c) and (d), the dog owner may also be sentenced to any of the following terms or conditions:
- (1) When indoors, the dog be under the control of a person 18 years of age or older;
 - (2) When outdoors on the owner’s premises and unattended, the dog be kept within a locked fenced or walled area from which it cannot escape;
 - (3) When outdoors on the owner’s premises and unattended, the dog be confined to an escape-proof kennel;
 - (4) When outdoors on the owner’s premises, the dog be attended and kept within a fenced or walled area from which it cannot escape;
 - (5) When outdoors on the owner’s premises, the dog be attended and kept on a leash no longer than six feet in length;
 - (6) When outdoors on the owner’s premises, the dog be kept under the control of a person 18 years of age or older;
 - (7) When outdoors outside the owner’s premises, the dog be attended and muzzled with a muzzle that prevents the dog from biting any person or animal but does not cause injury to the dog or interfere with its vision or respiration;

- (8) A sign or signs be placed in a location or locations directed by the court advising the public of the presence and dangerousness of the dog;
- (9) The owner and dog, at the owner's expense, attend training sessions conducted by an animal behaviorist, a licensed veterinarian or other recognized expert in the field;
- (10) The dog be neutered or spayed at the owner's expense, unless the neutering or spaying of the dog is medically contraindicated;
- (11) The owner procure liability insurance or post bond of not less than \$50,000, or for a higher amount if the court finds a higher amount appropriate to cover the medical and/or veterinary costs resulting from potential future actions of the dog;
- (12) The dog be humanely destroyed; or
- (13) Any other condition the court deems necessary to restrain or control the dog.

For the purposes of this subsection, an escape-proof kennel means a kennel which allows the dog to stand normally and without restriction, which is at least two and one-half times the length of the dog, and which protects the dog from the elements. Fencing or wall materials required under this section shall not have openings with a diameter of more than two inches, and in the case of wooden fences, the gaps therein shall not be more than two inches. Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the dog, and when the dog is confined to such kennel or area and unattended, such locks shall be kept locked. The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

Upon full investigation and finding of probable cause, an enforcement officer shall either arrest or issue a summons and citation to the owner for violation of subsection (a).

ed by Ord. (-05; Am. Ord. 05-007)

Sec. 7-7.3 Citation and summons—Seizure—Relinquishment of ownership.

(a) Upon full investigation and finding of probable cause to believe that there has been a violation of Section 7-7.2(a), an enforcement officer shall either arrest or issue a summons and citation to the owner pursuant to Section 7-7.2, and may, in addition, have the dog seized and impounded if the dog is posing an imminent threat to human beings or to other animals. At the owner's request, such impoundment may be at the premises of a licensed veterinarian or at a commercial kennel of the owner's choosing. All expenses of the boarding and retention of the dog shall be borne by the owner.

The owner is prohibited from selling or transferring the ownership or physical custody of the dog prior to the time stated in the summons, and the citation shall notify the owner of this prohibition. This prohibition shall not apply when an owner transfers ownership of the dog to the city animal control service.

If a dog is seized and impounded pursuant to this section, the citation shall notify the owner that if he or she does not appear at the time and place stated in the summons, the dog shall be subject to relinquishment pursuant to subsection (b).

Any person who refuses to surrender a dog that is subject to relinquishment pursuant to this section shall be guilty of a petty misdemeanor and fined not less than \$50 nor more than \$1,000, imprisoned not more than 30 days, or both.

(b) In the event that the owner of a dog seized and impounded pursuant to this section fails to appear in court as required, ownership of the dog shall be deemed relinquished and the court may order disposition of the dog as it deems appropriate.

(c) Notwithstanding any relinquishment of ownership of the dog pursuant to subsection (b) or voluntary relinquishment of ownership of the dog, the owner shall still be responsible for all expenses of boarding the dog and any fees and penalties which may be imposed by the court.

(Added by Ord. 00-72; Am. Ord. 02-05, 05-007)

Sec. 7-7.4 Inspection.

Upon presentation of proper credentials, any enforcement officer may enter at reasonable times any building, structure or premises in the City and County of Honolulu for the purpose of determining and enforcing compliance with the provisions of this article or of any court order issued under this article; provided that such entry shall be made in such manner as to cause the least possible inconvenience to the person in possession; and provided further, that an order of a court authorizing such entry shall be obtained in the event such entry is denied or resisted. (Added by Ord. 00-72; Ren. by Ord. 02-05)

Sec. 7-7.5 Exemption.

The provisions of this article shall not apply to dogs owned by any law enforcement agency and used in the performance of law enforcement work. (Added by Ord. 00-72; Ren. by Ord. 02-05)

Sec. 7-7.6 Civil action not precluded.

Nothing contained in this article shall preclude any person injured by a dog from bringing a civil action against the owner of such dog pursuant to the applicable provisions of state law. (Added by Ord. 00-72; Ren. by Ord. 02-05)

Sec. 7-7.7 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article which can be given effect without the invalid provisions or applications, and to this end the provisions of this article are severable. (Added by Ord. 00-72; Ren. by Ord. 02-05)

Sec. 7-7.8__ Mandatory reporting of dog bites.

- (a) All incidents of serious bodily injury from a dog bite shall be reported to the Honolulu police department by:
- (1) Any licensed, registered, or certified medical service provider regarding their treatment of a person, as permitted under the regulations implementing the Health Insurance Portability and Accountability Act, specifically, 45 CFR 164.512(f)(1); and
 - (2) Any veterinarian, regarding their treatment of an animal.
- (b) "Serious" bodily injury" is defined as a serious physical injury to a person involving a broken bone, a concussion, a laceration that extends down to the level of muscle or bone, or a tearing or rupture of an organ.
- (c) The police department shall forward each reported incident to the animal control contractor for investigation, and the animal control contractor shall make a determination whether the dog involved is a dangerous dog, prepare a report, and maintain a file of all reports.
- (d) Anyone participating in good faith in the disclosure of any information pertaining to incidents of serious bodily injury from a dog bite shall be immune from any liability, civil or criminal, that might otherwise be incurred, imposed or result from such action.

(Added by Ord. 07-2)