

## Article 7. Regulation of Dangerous Dogs

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### 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)