

Chapter 4

ANIMALS

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Chapter 4**ANIMALS****Article 1. Definitions.****Section 4-1. Definitions.**

As used in this chapter:

- (a) "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 a dwelling unit solely for personal enjoyment and companionship, such as, without limitation, for a hobby, for legal sporting activities and for guarding of property; animals exclude aviary game birds and fish as defined in Hawai'i Revised Statutes. Animal shall further mean any "animal," "farm animal," or "poultry" as those terms are defined in section 4.31.
- (b) "At large" means on the premises of a person other than the owner of the dog or other small domesticated animal without the consent of the occupant of the premises, or on a public street, alley, highway, or in any public place except when under the control of a responsible person or an authorized representative of the owner.
- (c) "Animal control officer" means any employee of a County-contracted animal control services provider or the Hawai'i County Police Department who is authorized to carry out and enforce the provisions of this chapter. Such individual shall also be known as and may bear the title of "humane officer."
- (d) "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.
- (e) "Bodily injury" means the same as that defined in section 707-700, Hawai'i Revised Statutes.
- (f) "County animal control service" means the animal control services provider contracted by the County to keep stray or unlicensed dogs.
- (g) "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.
- (h) "Enforcement officer" means any person authorized and designated to enforce the provisions of this article; however, only an officer of the Hawai'i County Police Department may arrest a person pursuant to the provisions of this article.
- (i) "Farm animals" means pigs, cows, goats, sheep, horses, camels, and llamas.
- (j) "Humane society" means any eleemosynary organization formed for the purpose of providing humane care and treatment of dogs, cats, and other animals.
- (k) "Negligently" shall have the same meaning as is ascribed to the term in section 702-206, Hawai'i Revised Statutes.
- (l) "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 parent, 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 the license was issued pursuant to section 143-2, Hawai'i Revised Statutes, shall be rebuttably presumed to be the owner of the dog for purposes of this section.
- (m) "Person" means and includes corporations, estates, associations, partnerships and trusts, as well as one or more individual human beings.
- (n) "Poultry" means chickens, pigeons, turkeys, geese, ducks, and peacocks not regulated by state law.
- (o) "Provocation" means that the attack by a dog upon a person or animal was precipitated under circumstances reasonably expected to evoke a vicious response from the dog, including, but not limited to, the following:

- (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 while on the property of the owner of the dog;
 - (3) The person attacked was tormenting, abusing, or assaulting the dog;
 - (4) The dog was attacked by the animal;
 - (5) The dog was responding to pain or injury inflicted by the attacked person or animal; or
 - (6) The dog was protecting itself, its kennels or its offspring from the attacked person or animal and the attack was committed on its owner’s property.
- (p) “Serious injury” to a domestic animal means physical injury to the animal involving a broken bone, a laceration requiring stitches, a concussion, or a tearing or rupture of an organ.
- (q) “Sterilized dog” means a spayed female dog and a neutered male dog.
- (r) “Stray” means:
- (1) An unlicensed dog or dog without a license for the current year;
 - (2) Any dog on the premises of a person other than the owner of the dog, without the consent of an occupant of such premises;
 - (3) Any dog 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; or
 - (4) A cat or small domesticated animal wandering or running at large, or found upon any public place or found not upon the lands of the owner or not under the charge or control of one in possession.
- (s) “Vicious dog” means a dog which:
- (1) Places a person or other animal in imminent danger of bodily injury; or
 - (2) Has bitten any person or animal.
- A dog shall not be deemed vicious where the vicious behavior in question is the result of the dog being tormented, assaulted, or otherwise abused by the victim of the vicious behavior.
- (1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 1; Am. 1988, Ord. No. 88-48, sec. 2; Am. 1992, Ord. No. 92-93, sec. 1; Am. 2002, Ord. No. 02-138, sec 2.)

Article 2. Dog, Cat, and Animal Pounds.

Section 4-2. Pound established for dogs, cats, and small domesticated animals.

There may be established pounds for the purpose of impounding, sheltering, and disposing of unlicensed, lost, stray, homeless, or diseased dogs, for the destruction or other disposition of seized dogs, not redeemed, and for the sheltering and disposing of lost, stray, unclaimed, or diseased cats and other small domesticated animals in the districts of Ka‘ū, Hilo, Hāmākua, Puna, Kohala and Kona, County of Hawai‘i.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2.)

Section 4-3. Direction, control, and administration of pound.

Each pound shall be under the direction, control, and administration of the County or a humane society with whom the County has contracted for services which shall, in addition to the duties provided in section 4-2, feed and shelter the dogs, cats, and small domesticated animals in their care pursuant to chapter 143, Hawai‘i Revised Statutes. The County may enter into contracts with more than one humane society to carry out the purposes of this chapter and chapter 143, Hawai‘i Revised Statutes.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-4. Power to seize and impound dogs, cats, and small domesticated animals.

The County or the humane society with whom the County has contracted for services shall be authorized to seize and impound any dog, cat, or other small domesticated animal, when such dog, cat, or other small domesticated animal is a stray, and to dispose of such dog, cat, or small domesticated animal in accordance with chapter 143, Hawai'i Revised Statutes.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-5. Enforcement by humane officer.

The humane society with whom the County has contracted for services may designate its employees who possess qualifications and training satisfactory to the County to serve as humane officers to carry out the provisions of this article, chapter 143, Hawai'i Revised Statutes, and other provisions of this chapter which expressly authorize such humane officers to take specific action by ordinance.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-6. Expenses and appropriations for the pound.

All expenses of seizing, impounding and disposing of stray dogs, cats, and small domesticated stray animals shall be borne by the humane society with whom the County has contracted to provide such services. The council, however, shall from time to time make such appropriations to assist such humane society as in its discretion and judgment shall be deemed to be necessary to accomplish the responsibilities which such humane society may be required to perform under this chapter.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-7. Agreement between County and humane society required.

An agreement containing, but not limited to, the extent of services rendered or to be rendered by the humane society and methods of reporting and accounting shall be entered into between the society and the County before any payments may be made to the society under this chapter.

(1975, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-8. Quarterly report required.

The humane society, individually, shall render a full report of its activities, budget, and operations relating to the impounding of stray dogs, cats, and other stray domesticated animals to the mayor and council within one month after the end of each quarter in each fiscal year.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-9. Control of pound by humane society.

Any humane society charged with the responsibility of operating a pound under a contract with the County shall have full and complete control over the administration, maintenance and operation of the pound, subject to the powers reserved to the County under any contract. Such society, or its employees, officers, directors and agents, shall not be viewed as an agent or employee of the County due to the County's establishment and maintenance of controls to assure that public funds distributed to the society are being spent for public purposes.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Section 4-10. Transfer of facilities and equipment to societies; reversion.

- (a) The County administration is authorized to transfer facilities, equipment, and supplies, which were assigned to pound operations, to the humane society for use in pound functions in accordance with section 6-6.3(k), Hawai‘i County Charter. The humane society shall not sell, exchange or dispose of the transferred facilities, equipment, and supplies without the written approval of the council.
- (b) Should any humane society cease to operate or use such facilities, equipment and supplies for its intended purpose for a period of sixty days, such facilities, equipment and supplies transferred by the County for operation of the animal pound shall revert to the ownership and control of the County.
- (c) Should any humane society terminate its contract for services with the County for any reason, voluntarily or involuntarily, any equipment or supplies purchased by the society with contract funds shall revert to the ownership and control of the County.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2; Am. 2011, Ord. No. 11-103, sec. 5.)

Section 4-11. Indemnification to County.

The humane society with whom the County has contracted for services shall undertake to indemnify the County, its officers, agents, employees, and successors, from any and all liabilities, losses or damages the County, its officers, agents, employees, and successors may suffer as a result of claims, demands, costs, or judgments against it arising out of the establishment, maintenance, and operation of the pound, or the seizure, impoundment and disposition of dogs, cats and small domesticated animals, or any activity arising under the contract or this chapter.

(1973, Ord. No. 11, sec. 1; Am. 1975, Ord. No. 86, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1992, Ord. No. 92-93, sec. 2.)

Article 3. Dog License Fees.

Section 4-12. Fees.

- (a) The following fees are hereby established as biennial license fees for the privilege of owning, harboring or keeping of dogs in the County:

(1) Sterilized dogs	\$2.00
(2) Unsterilized dogs	\$6.00

- (b) For purpose of this section a sterilized dog means a spayed female dog and a neutered male dog.

(1977, Ord. No. 301, sec. 1; Am. 1980, Ord. No. 510, sec. 2; Am. 1981, Ord. No. 644, sec. 1.)

Section 4-13. Proof of sterilization.

Any person seeking to have the person’s dog licensed at the sterilized dog rate must present a certificate from a veterinarian licensed to practice within the State showing the description, age, and breed of the dog and certifying its sterilization.

(1977, Ord. No. 301, sec. 1; Am. 1980, Ord. No. 517, sec. 2; Am. 1981, Ord. No. 644, sec. 1.)

Article 4. Prohibitions.

Division 1. Dogs, Cats, and Other Animals.

Section 4-14. Impoundment of animals.

- (a) If any animal, except dogs and cats, trespasses, roams, strays or grazes upon any public lands, private lands of another, or upon any public highway in the County, any police officer or officer may seize and impound such animal for such period of time as may be deemed necessary; provided that reasonable attempts have first been made to notify the owner or keeper of the animal to remove the animal.

- (b) If reasonable attempts to notify the owner or keeper of the animal are unsuccessful, if the owner or keeper is unknown, or the owner or keeper refuses or fails to remove the animal after notice, the animal may be seized and impounded by the police or any officer. The owner or keeper of the animal shall pay not less than \$5 for each animal that is seized and impounded plus all additional costs incurred in the removal and transportation of the animal, and all costs for the feeding and care of each animal, including, but not limited to bona fide veterinary expenses. If any damage is done by the animals, the owner thereof shall pay to the proper claimant the full amount of damage or loss occasioned by the straying of the animals.
 - (c) In case the charges and fees are not paid, or after forty-eight hours, in cases where the owners are unknown, the animals may be sold at public auction, or disposed of by the chief of police or the chief's authorized representative.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 2.)

Section 4-15. Failure to remove animal; penalty.

In addition to the charges or damages in section 4-14, the owner of any animal which trespasses, roams, strays, or grazes upon any public or private lands, or upon a public highway in the County, if upon notice, fails to remove the animals within twenty-four hours thereof, shall be guilty of a violation of this section and upon conviction thereof shall be fined not more than \$100.

(1980, Ord. No. 510, sec. 2.)

Section 4-16. Duty upon striking animals, including dogs and cats.

The driver of any vehicle which collides with or is involved in an accident with any animal, including dogs and cats, shall:

- (a) Stop, move the animal off the road, if possible, and render aid where necessary, and immediately
- (b) Have the animal's owner located, or
- (c) Notify the police department or humane society.

There shall be a penalty of not more than \$50 for each violation of subsection (b) or (c) of this section.

(1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 4; Am. 1986, Ord. No. 86-34, sec. 1.)

Section 4-17. Cruelty to animals, including dogs and cats.

A person commits the offense of cruelty to animals, dogs and cats if the person knowingly or recklessly:

- (a) Gives away an animal, dog or cat, or animals, dogs or cats, as a prize or prizes;
- (b) Abandons any animal, dog or cat.

There shall be a penalty of not more than \$500 for each violation of this section.

(1980, Ord. No. 510, sec. 2; Am. 1986, Ord. 86-34, sec. 2.)

Section 4-18. Places prohibited to animals, including dogs and cats.

- (a) Except as otherwise provided, it shall be unlawful for any person to take or permit any dog, cat, or other domestic animal, whether loose or on a leash or in restraint on or about any County beach park or any establishment or place of business where food or food products are sold or displayed, including but not limited to restaurants, grocery stores, meat markets, fruit or vegetable stores.
 - (b) This section shall not apply to "Seeing Eye" dogs or other dogs necessarily utilized for the benefit of handicapped persons or to dogs used for purposes of law enforcement by law enforcement agencies of the Federal, State or County governments.
 - (c) There shall be a penalty of not more than \$50 for each violation of this section.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 11; Am. 1986, Ord. No. 86-34, sec. 3.)

Section 4-19. Defecation and nuisance prohibited.

- (a) No person who owns, harbors, keeps or has charge or control of any dog or other small domesticated animal shall cause, suffer, or allow such animal to soil, defile, defecate on, or commit any nuisance on any part of any street, including any sidewalk, passageway or bypath, or on any play area, park, or place where people congregate or walk, or on any public property, or on any private property, without the permission of the owner of the property.
- (b) The restrictions in this section shall not apply to that portion of the roadway of any street which lies between and within three feet of the edges or curbs of the roadway, except at crosswalks or bus stops, provided that the person who owns, harbors, keeps or has charge or control of a domesticated animal shall immediately and securely enclose all feces deposited by the animal in a bag, wrapper, or other container, and dispose of the same all in a sanitary manner.
- (c) There shall be a penalty of not more than \$50 for violations of this section.
(1980, Ord. No. 510, sec. 2; Am. 1986, Ord. No. 86-34, sec. 4.)

Division 2. Dogs.**Section 4-20. Seizure of dogs by officers.**

- (a) Seizure of Unlicensed Dogs.
 - (1) Every officer shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, and confine it in a pound or any suitable enclosure for a minimum period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and an impoundment fee of \$10. Every dog found without a registration tag affixed to the dog’s collar will be deemed to be unlicensed.
 - (2) If not so redeemed, the dog shall be sold by the officer for the amount of the license and impoundment fee, or as much more as can be obtained therefor, and if not so sold, it shall be humanely destroyed.
 - (3) The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction by paying to the humane society, in addition to the amount of the license and impoundment fee, the sum of \$5 per day for the number of days over two days the dog was impounded.
 - (4) Of the moneys so received, the amount of the impoundment fee or kennel fees, if any, shall be paid to the director of finance.
- (b) Seizure of Licensed Stray Dogs.
 - (1) Every officer shall seize and impound any licensed stray dog.
 - (2) The officer shall notify the person to whom the license was issued, at the address given in the license certificate, and shall, upon demand made within forty-eight hours thereafter, release the dog to the person upon payment of an impoundment fee of \$10.
 - (3) If no person lawfully entitled to the dog shall, within seven days after the date of giving notice, claim the dog, the dog may be sold or destroyed by the humane society.
 - (4) The owner of any licensed dog impounded and not claimed within forty-eight hours may redeem the dog at any time before the sale or destruction of the dog by paying to the humane society, in addition to the \$10 impoundment fee, the sum of \$5 per day for the number of days over two days the dog was impounded.
 - (5) All impoundment and kennel fees collected by the humane society in any given month shall be deposited by the humane society no later than the fifth day of the following month with the finance director to the credit of the County of Hawai‘i general fund account.

(1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 5; Am. 1995, Ord. No. 95-32, sec. 2.)

Section 4-21. Seizure of stray dogs by persons other than officers.

- (a) Every person other than an officer as defined hereinabove who takes into possession any stray dog shall within forty-eight hours notify the humane society and release the dog to the humane society to be impounded and disposed of according to section 4-20.
 - (b) There shall be a penalty of \$10 for each violation of this section.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 6.)

Section 4-22. Redemption of seized dogs after sale.

The owner of any dog which has been seized and sold as provided in this chapter may, at any time within thirty days after the sale, redeem the same from the purchaser by paying to the purchaser the amount of the purchase price paid by the purchaser and the sum of \$1 per day for the number of days from the date of sale to and including the date of redemption, plus bona fide veterinary expenses.

(1980, Ord. No. 510, sec. 2.)

Section 4-23. Female dogs.

- (a) Any female dog in season is not permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult.
 - (b) At all other times, when any dog is in season such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog.
 - (c) A penalty of \$10 shall be imposed upon the owner or keeper of a dog for each violation of this section.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 7.)

Section 4-24. Noisy dogs.

- (a) No person shall keep any dog which barks, bays, cries, howls or makes any other noise continuously or incessantly for a period of ten minutes or barks, bays, cries, howls or makes any other noise intermittently for a period of twenty minutes within a thirty-minute period of time to the disturbance of any person at any time of day or night and regardless of whether the dog is physically situated in or upon private property.
 - (b) A dog shall not be deemed a noisy dog for purposes of this section if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any other legitimate cause which teased or provoked the dog. Such action is declared to be a public nuisance and detrimental to the public health and welfare.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 8; Am. 1992, Ord. No. 92-109, sec. 1.)

Section 4-25. Noisy dog; reasonable attempts to reduce noise; penalties.

- (a) Any person disturbed by a noisy dog shall make a reasonable attempt to advise the owner or custodian who keeps such dog of this fact. Reasonable attempts for notification include by letter, email, visit to the owner or custodian, or any other legal method. If the person disturbed by a noisy dog is unable to notify the owner or custodian of the noisy dog, or after notifying the owner or custodian, the nuisance is not abated, the person disturbed by the noisy dog may then notify the appropriate enforcement agency.
 - (b) The owner or custodian of a noisy dog that causes a disturbance as provided in section 4-24 shall be guilty of a violation of this section:
 - (1) If after being advised of the disturbance per subsection (a), the owner or custodian of a noisy dog does not take immediate and effective action to abate the nuisance; or
 - (2) If the appropriate enforcement agency is notified and responds to a complaint of a noisy dog and the nuisance is not abated.
 - (c) There shall be a penalty of \$25 for the first violation of this section. The second violation has a penalty of \$75, the third \$100, and any subsequent violation \$200.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 9; Am. 1992, Ord. No. 92-109, sec. 1; Am. 1996; Ord. No. 96-105, sec. 1; Am. 2011, Ord. No. 11-48, sec. 1.)

Section 4-26. Harboring, holding for reward, or licensing of strayed or stolen dogs.

- (a) Except as otherwise provided, no person shall harbor or hold for reward or procure a license for a dog which has strayed from the dog's premises or which has been picked up on a public street, highway or other public place unaccompanied by its owner or other person or which has been stolen from its owner.
- (b) There shall be a penalty of \$10 for each violation of this section.
(1980, Ord. No. 510, sec. 2.)

Section 4-27. Injuring or poisoning dogs.

- (a) Unless otherwise provided by law, no person shall wilfully or negligently injure or poison any dog.
- (b) There shall be a penalty of \$10 for each violation of this section.
(1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 10.)

Section 4-28. Dangerous dogs may be slain.

- (a) If any dangerous, fierce, or vicious dog shall be found running at large and cannot be taken up or tranquilized and impounded, such dog may be slain by any officer or agent authorized to perform any duty under this chapter.
- (b) Notwithstanding any provision to the contrary which may be found elsewhere in this chapter, where livestock have been killed, maimed or injured by any dangerous, fierce or vicious stray dog, the owner of such livestock or the owner's agent, after being deputized as a special officer in accordance with the provisions of section 4-5, may take any action necessary to protect the owner's livestock from such dangerous, fierce, or vicious dog, including, without limitation, slaying or otherwise disposing of the same.
(1980, Ord. No. 510, sec. 2.)

Section 4-29. Leash required for public places.

- No person shall bring or permit any dog in any County park, public school ground, or airport unless it is held under control by a suitable leash, not more than six feet long; provided, however, that dogs even under control by a suitable leash shall not be allowed in any County beach park. These restrictions shall not apply to dogs utilized by police for patrol or other police purposes.
(1980, Ord. No. 510, sec. 2; Am. 1986, Ord. No. 86-34, sec. 5.)

Section 4-30. Penalty for permitting a dog to stray.

- In addition to other penalties listed in this chapter, the owner of any dog which strays upon any public lands or the private lands of another shall be fined as follows:
- (a) For a first offense, or any offense not preceded within a five-year period by a conviction under this section:
 - (1) \$25.
 - (b) For any offense which occurs within a five-year period of a prior conviction under this section:
 - (1) \$50.
 - (c) For any offense which occurs within five years of two prior convictions under this section:
 - (1) \$75.
 - (d) For any offense which occurs within five years of three or more prior convictions under this section:
 - (1) Any one or more of the following:
 - (A) A fine of up to \$500.
 - (B) Up to one hundred hours of community service.
- (1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, sec. 12; Am. 1995, Ord. No. 95-32, sec. 3.)

Section 4-31. Regulation of dangerous dogs; prohibited acts; conditions on owner; penalties.

- (a) A dog owner commits the offense of negligent failure to control a dangerous dog, if the person 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.
- A person convicted under this subsection shall be guilty of a petty misdemeanor 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 sections 4-14, 4-15, 4-18, 4-20, 4-23, 4-30 and 4-32 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 one or more of the following:
- (1) A fine of not less than \$200 nor more than \$2,000;
 - (2) A period of imprisonment of up to thirty 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 chapter 706, part II, Hawai‘i Revised Statutes;
 - (3) Restitution to any individual who has suffered bodily injury or property damage as a result of an attack by the dog.
- (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 county 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 section 143-2, Hawai‘i Revised Statutes, if the dog is not currently licensed; and
 - (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 county animal control service.
- (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 eighteen years of age or older;
 - (2) When outdoors and unattended, the dog be kept within a locked fenced or walled area from which it cannot escape;
 - (3) When outdoors and unattended, the dog be confined to an escape-proof kennel;

- (4) When outdoors, the dog be attended and kept within a fenced or walled area from which it cannot escape;
 - (5) When outdoors, the dog be attended and kept on a leash no longer than six feet in length and under the control of a person eighteen years of age or older;
 - (6) When outdoors, 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;
 - (7) 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;
 - (8) 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;
 - (9) The dog be neutered or spayed at the owner's expense, unless the neutering or spaying of the dog is medically contraindicated;
 - (10) 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;
 - (11) The dog be humanely destroyed; or
 - (12) 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.
- (f) Upon probable cause, an enforcement officer may either arrest or issue a summons and citation to the owner for violation of subsection (a).
- (1980, Ord. No. 579, sec. 13; Am. 1987, Ord. No. 87-122, sec. 2; Am. 2002, Ord. No. 02-138, sec. 3.)

Section 4-31.1. Citation and summons; seizure; relinquishment of ownership.

- (a) Upon finding probable cause to believe that there has been a violation of section 4-31(a), an enforcement officer may, in addition to arresting or issuing a summons and citation to the owner pursuant to section 4-31, have the dog seized and impounded if the dog is posing an imminent threat to human beings or to other animals. Such impoundment may be at the premises of a licensed veterinarian or at a commercial kennel. All expenses of the boarding and retention of the dog shall be borne by the owner.
- (b) If a dog is seized and impounded pursuant to this section, the citation shall notify the owner that if the owner does not appear at the time and place stated in the summons, the dog shall be subject to relinquishment pursuant to subsection (d).
- (c) 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 \$200 nor more than \$2,000, imprisoned not more than thirty days, or both.
- (d) 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.

- (e) Notwithstanding any relinquishment of ownership of the dog pursuant to subsection (d) or voluntary relinquishment of ownership of the dog, the owner shall still be responsible for all expenses of boarding the dog and any penalties which may be imposed by the court.
(1988, Ord. No. 88-48, sec. 3; Am. 2002, Ord. No. 02-138, sec 3.)

Section 4-31.2. 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.
(1988, Ord. No. 88-48, sec. 3; Am. 2002, Ord. No. 02-138, sec 3.)

Section 4-31.3. 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.
(1988, Ord. No. 88-48, sec. 3; Am. 2002, Ord. No. 02-138, sec 3.)

Section 4-31.4. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall 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.
(2002, Ord. No. 02-138, sec 3.)

Division 3. Enforcement.

Section 4-32. Enforcement.

For any violation of any of the provisions of this article or of the provisions of chapter 143, Hawai'i Revised Statutes, it shall be the duty of any 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 chapter 143, Hawai'i Revised Statutes. Said summons shall instruct such owner or person to report at the violations bureau of the respective district courts of the third circuit. 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.
(1986, Ord. No. 86-34, sec. 6.)

Section 4-32.1. Training; appointment; powers of humane officer.

- (a) Pursuant to section 143-2.5, section 143-7, and section 46-1.5(15), Hawai'i Revised Statutes, a humane officer shall be authorized to issue a complaint and summons or other form of citation as the police chief may deem to be appropriate to enable a humane officer to carry out and to perform the duties of a humane officer under this chapter and any contract between the County and a humane society.
- (b) The police chief shall verify that a person designated by a humane society to serve as a humane officer is qualified and trained to serve in that capacity. The police chief shall be empowered to establish minimum requirements for qualification and training, which may be revised from time to time, provided that a copy thereof, and of any revisions, shall be kept on file with the police chief's office thereof at all times. All County agencies, officers and employees shall render their cooperation and assistance to the police chief for purposes of this subsection (b).

- (c) The police chief, upon verification of a humane officer’s qualification and training, shall issue an oath of office and identification badge or insignia to the humane officer.
 - (d) A humane officer’s appointment, power and authority shall be for a period of not more than two years unless the same is sooner terminated by the humane officer’s discharge as an employee of the humane society or discharge as a humane officer by the police chief. The police chief may terminate and discharge a humane officer’s appointment upon recommendation of the humane society of which the humane officer is an employee or upon a finding by the police chief that the humane officer has failed to comply with the minimum qualification and training requirements established for humane officers by the police chief.
 - (e) No proceeding for the appointment, termination or discharge of humane officers shall be subject to laws governing civil service or public employees.
- (1992, Ord. No. 92-93, sec. 3; Am. 2003, Ord. No. 03-116, sec. 1.)

Section 4-33. Summons.

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 chapter 143, Hawai‘i Revised Statutes. 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 Hawai‘i and the County of Hawai‘i. The form and content of such summons shall be as adopted or prescribed by the administrative judge of the district courts.

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 a carbon copy of the summons, and provide for the disposition of the original and any other copies.

Every summons shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(1986, Ord. No. 86-34, sec. 6.)

Section 4-34. Failure to obey summons.

It shall be unlawful for any person to fail to appear at the place and within the time specified in the summons issued to the person by an officer for any violation of any section of this article, regardless of the disposition of the charge for which the person was originally cited.

(1986, Ord. No. 86-34, sec. 6.)

Section 4-35. Issuance of complaint; when.

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 the person’s arrest.

(1986, Ord. No. 86-34, sec. 6.)

Section 4-36. 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 to the County of Hawai‘i and deposited in the general fund of the County of Hawai‘i.

(1986, Ord. No. 86-34, sec. 6.)

Article 5. State Law Reference and Severability.

Section 4-37. Reference to Hawai'i state law.

In construing this chapter and providing for the control of animals in the County of Hawai'i, reference shall be made to the Hawai'i Revised Statutes, including, but not limited to:

Chapter 142, part III, Hawai'i Revised Statutes:	Fences and trespasses by animals
Section 142-74, Hawai'i Revised Statutes:	Liability of dog owner; penalty
Section 663-1, Hawai'i Revised Statutes:	Torts, who may sue and for what
Section 142-96, Hawai'i Revised Statutes:	Frightening animals; penalty
Sections 187-12 to 14,* Hawai'i Revised Statutes:	Predators and destruction of predators
Section 142-97, Hawai'i Revised Statutes:	Wild cattle through street; penalty

(1980, Ord. No. 510, sec. 2; Am. 1980, Ord. No. 579, secs. 13 and 14; Am. 1986, Ord. No. 86-34, sec. 7.)

* **Editor's Note:** Chapter 187, Hawai'i Revised Statutes, has been repealed.

Section 4-38. Severability.

If any provision of this chapter 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.

(1986, Ord. No. 86-34, sec. 7.)