



A BILL FOR AN ORDINANCE

RELATING TO ANIMALS IN PARKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this bill is to regulate animals in parks.

SECTION 2. Section 10-1.1, Revised Ordinances of Honolulu 1990, as amended, ("Definitions") is amended by adding a new definition to read as follows:

""Petting zoo" means any temporary establishment where living animals are displayed to the public in a manner that allows the animals to be touched or handled."

SECTION 3. Section 10-1.3, Revised Ordinances of Honolulu 1990, as amended, ("Permits") is amended by amending subsection (a) to read as follows:

"(a) Required. Any person using the recreational and other areas and facilities under the control, maintenance, management and operation of the department of parks and recreation shall first obtain a permit from the department for the following uses:

- (1) Picnic groups, consisting of 50 or more persons;
- (2) Camping;
- (3) Sports activities conducted by either a league, organization, association, group or individual;
- (4) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups or individuals;
- (5) Meetings or gatherings or other similar activity held by organizations, associations or groups;
- (6) Nonrecreational, public service activities, meetings and gatherings held by organizations, communities or groups;
- (7) Right of entry into parks for installation of utilities or construction work;



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- (8) The playing of musical instruments as solo or two or more instruments which fall within the standards described in paragraphs (A), (B) and (C) of this subdivision:
- (A) Musical instruments which are limited to two octaves or less, including but not limited to the following musical instruments: (i) tuba, (ii) tympani, (iii) maracas, (iv) uliuli, (v) castanets, (vi) tambourine or (vii) percussion instruments in which a human hand or drumsticks are used to create sounds therefrom;
 - (B) Musical instruments which when played do not exceed the sound pressure level established in Section 10 1.2(b)(8); and
 - (C) Musical instruments which are used or played continuously without a regular hourly break of 30 minutes, or for more than six hours within a day.

The use or the playing of a musical instrument which requires a permit as provided hereunder shall be subject to the following restrictions, in addition to any other conditions imposed by the rules and regulations promulgated by the director:

- (A) Issuance Standards for Permits. The department of parks and recreation shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance of a permit under this section, except as provided in this section and in the departmental rules.
- (B) Judicial Review. Upon the department's refusal to issue a permit, the applicant for such permit shall be entitled to a review by the circuit court within 30 days after the date of such refusal. In such review, the department's decision shall be upheld in the absence of a judicial finding of abuse of discretion.
- (C) Restrictions. The use or the playing of a musical instrument which requires a permit as provided hereunder shall be subject to the following restrictions, in addition to any other conditions imposed by the rules adopted by the director:



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- (i) Time: Only between the hours of nine a.m. and six p.m. daily, and
 - (ii) Place: The playing of such instruments shall be restricted to the facility especially constructed for such purpose, such as the bandstand at Kapiolani Park or other areas within the park that shall be clearly designated in the permit, and
 - (iii) Manner: During the hours mentioned in subparagraph (i) of this paragraph, every half-hour of playing period shall immediately be followed by a 15-minute break or every one hour of playing period shall immediately be followed by a half-hour break; provided, that at no time shall there be any continuous playing exceeding an hour.
- (D) Duration of Permit. The duration of a permit issued pursuant to subdivision (8) shall not exceed one month;
- (9) Hang gliding;
- (10) Commercial activities, provided that the proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted, and subject to department of parks and recreation rules and regulations regarding the solicitation of business, advertising, and commercial promotional activities. No permit for commercial activities, including permits for recreational stops by commercial tour companies, at Kailua Beach Park and Kalama Beach Park, shall allow such activity from 1:00 p.m. on Saturdays through 6:30 a.m. on Mondays, except as otherwise provided in this chapter for commercial filming activities;
- (11) Constructing, utilizing, placing, occupying, or in any other manner situating any tent[.];
- (12) Pony rides and petting zoos. Permittees shall be responsible for supplying sufficient amounts of soap and running water in close proximity to the area subject to the permit; cleaning and properly disposing of animal feces relating to the activity; and erecting signage notifying any person entering the area subject to the permit that entry is at the person's own risk and the city is not liable for any injury or harm occurring therein



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during the permitted time. Permittees shall assume all risk and liability for personal injury, wrongful death, or loss or damage to property, arising or resulting from permittee's use of the public facilities under the permit, and agree to indemnify, hold harmless and defend the city and county of Honolulu against any claim, cause of action, liability, loss, damage, cost or expense for bodily injury, wrongful death, or property damage, arising or resulting from permittee, its agents, employees, contractors or invitees use of the public facilities under the permit, or breach of ordinances or regulations, except where such injury, death or property damage is caused by the willful act or gross negligence of the city."

SECTION 4. Section 10-1.7, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 10-1.7 Animals in public parks.

- (a) Persons may bring animals into public parks as provided in this section in accordance with rules adopted by the director pursuant to HRS Chapter 91. Such rules may provide for the following:

[(1) Pony rides may be allowed by permit in conjunction with a carnival or fair.]

[(2)] (1) Shows, classes and other events for cats, dogs, and other common domestic household pets may be allowed by permit.

[(3)] (2) Persons having custody and control of dogs on a leash may use public parks or areas therein designated for dogs on a leash by the director in accordance with subsection (b).

[(4)] (3) Persons having custody and control of unleashed dogs may use an off-leash park designated by the director in accordance with subsection (b).

For purposes of this subsection, "common domestic household pets" includes animals such as domesticated mice, rats, rabbits, guinea pigs, fish and birds, but excludes animals which are considered "livestock" as that term is defined in Section 21-10.1.

- (b) The director is authorized to designate areas in public parks for use by persons having custody and control of dogs on a leash and to designate public parks for use as off-leash parks for dogs. In designating parks as off-leash parks and in



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designating parks or areas therein for leashed dogs, the director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The director shall post signs that notify the public of such designation that describe or map the park or park areas so designated. Signs for areas for leashed and off-leash dogs shall further display the applicable requirements in subsection (c). Parks for off-leash dogs shall be appropriately fenced to contain the dogs.

(c) The director may designate areas in public parks for pony rides and petting zoos. In designating an area for pony rides or petting zoos, the director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. Any person who wishes to operate a pony ride or a petting zoo shall obtain a permit pursuant to subsection 10-1.3(a)(12).

[[c)] (d) The director shall adopt rules pursuant to HRS Chapter 91 to hold persons bringing permitted animals into public parks responsible for the sanitary use of the park, the protection of shrubbery, trees, turf and other property, and the safety, health and welfare of all park users. The rules shall address the specific responsibilities associated with bringing a type of animal into a public park.

- (1) Rules for persons bringing leashed dogs into designated parks or park areas shall include:
 - (A) Requiring the person having custody and control of the dog to restrain the dog at all times on a leash, cord, chain or other similar means of physical restraint of not more than eight feet in length;
 - (B) Requiring all dogs in the park or park areas designated for leashed dogs to display a valid license tag attached to the dog's collar;
 - (C) Requiring the person having custody and control of the dog to be eighteen years of age or older; and
 - (D) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog.
- (2) Rules for persons bringing dogs off-leash into designated off-leash parks shall include:



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- (A) Requiring the person having custody and control of the dog to maintain voice control over the dog at all times;
- (B) Prohibiting female dogs in estrus from entering the off-leash park;
- (C) Requiring all dogs to display a valid license tag attached to the dog's collar;
- (D) Notifying any person entering an off-leash park that the person enters and remains in the park at his or her own risk and the city is not liable for any injury or harm to any person or dog incurred or caused by any other person or dog entering or remaining in the off-leash park;
- (E) Requiring the person having custody and control of the dog to be eighteen years of age or older; and
- (F) Requiring the person having custody and control of the dog to carry equipment for the removal and disposal of dog feces and to clean up and dispose of feces left by the dog."

SECTION 4. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 5. This ordinance shall take effect upon approval.

INTRODUCED BY:

Tom Berg

DATE OF INTRODUCTION:

April 19, 2012
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

PETER B. CARLISLE, Mayor
City and County of Honolulu

APR 19 2014
FILED
PURSUANT TO ROH Sec. 1-2.4