Chapter 4 - ANIMALS[1]

Footnotes:

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Editor's note— Ord. No. 10-O-15AA, § 1, adopted February 24, 2010, repealed and reenacted chapter 4 in its entirety to read as herein set out. Formerly, chapter 4 pertained to similar subject matter, and derived from the Code of 1957, §§ 7-9, 7-10, 7-17—7-22, 7-27, 7-29—7-33, 7-33.3; Ord. No. 82-O-1989, § 1, adopted May 25, 1982; the Code of 1984, §§ 5-1—5-3, 5-8—5-16, 5-23—5-33, 5-35—5-37; Ord. No. 84-O-2291, § 1, adopted May 22, 1984; Ord. No. 89-O-0015AA, adopted March 22, 1989; Ord. No. 91-O-0061, §§ 1—8, adopted December 11, 1991; Ord. No. 95-O-0013, § 1, adopted April 26, 1995; Ord. No. 95-O-0032, § 1, adopted September 13, 1995; Ord. No. 96-O-0021, § 1, adopted August 21, 1996; Ord. No. 99-O-0031, §§ 3—11, adopted May 26, 1999; Ord. No. 08-O-70, §§ 3—5, adopted January 28, 2009, and Ord. No. 08-O-71, § 2, adopted January 28, 2009. Ord. No. 10-O-15AA shall become effective June 1, 2010.

Cross reference— Environment, ch. 9.

State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166; local animal control ordinances, F.S. § 828.27.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Statement of purpose.

The purpose and intent of this chapter is to protect public health and safety and promote the general welfare of citizens and animals residing within the city. Pet ownership is encouraged and welcomed when it is accompanied by responsible, caring, humane and legal treatment of the animal. Pet owners and caregivers must be respectful of the rights of their fellow citizens, public and private property, and quality of life as it is impacted by their animal(s). Owners are responsible for properly training and/or securing their animals so as to prevent them from causing damage, injury or nuisance. Owners must also carefully manage their pet's ability to procreate so as to prevent the addition of unwanted stray and feral animals and to help actively reduce the euthanasia of surplus pets in our community.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and without adequate food, water, ventilation or shelter, for a period in excess of 24 hours, regardless of where such animal may be found or kept.

Animal means any domesticated animal or any captive wild animal.

Animal control officer means any person employed or appointed by the city or county who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this chapter.

Animal services means the organization or authority designated by the city to enforce animal control ordinances, provide temporary care for stray and surrendered animals and carry out other relevant animal related governmental laws and programs.

Animal shelter means any facility designated by the city for the purpose of housing and caring for animals held under the authority of this chapter.

At large means any animal, other than a dog, that is off the premises of the owner, while not under the supervision and control of the owner, or, in the case of dogs, any dog that is not at all times, whether on or off the premises of the owner, under the direct control of the owner.

Attack means the act by any animal of approaching a domestic animal or a person in such a manner that hostile contact with the other animal or person occurs, or if the act requires a defensive action by any person to prevent bodily injury when such person is conducting himself peacefully and lawfully. Conduct of an animal, such as charging, growling, or chasing in a menacing fashion is considered an attack if a reasonable person believes such conduct threatens the safety and welfare of any person.

Baiting means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.

Bite means that the skin has been penetrated by an animal's teeth or beak.

Cat means the domestic cat, Felis catus.

Citation means a written notice issued to a person by an officer stating that the officer has probable cause to believe that the person has committed a civil infraction in violation of this chapter and that the county court will hear the charge.

Community cat means any unowned free-roaming cat that may or may not be feral. Any free-roaming cat that does not have traceable identification through a currently registered microchip, rabies tag, or private identification tag shall be considered a community cat. A community cat that has been spayed or neutered and vaccinated against the rabies virus shall be distinguished from other cats by having its ear tipped.

Dangerous dog means any dog that according to the records of Tallahassee Animal Services, the Leon County Division of Animal Control, or any law enforcement agency:

(1) Has aggressively bitten, attacked or endangered, or has inflicted severe injury on a human being on public or private property; or

(2) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(3) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting; or

(4) Has, when unprovoked, chased or approached a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any of the above-referenced authorities.

This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties.

Direct control means effective immediate, continuous physical control of a dog at all times such as by means of a leash, lead, kennel, secure fence, or chain of such strength to restrain the dog and controlled by a responsible person capable of restraining the dog, or safe and secure restraint within a building or vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in certified

training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or of government police dogs.

Dog means the domestic dog, Canis familiaris, or any of the various other animals of the family Canidae.

Ear tip means the universal sign to identify a community cat that has been spayed or neutered and vaccinated against the rabies virus. The procedure involves removing approximately a quarter inch off the tip of the cat's ear in a straight line cut. It is customarily the left ear and this is done while the cat is anesthetized.

Electronic fence or an electronic collar means a fence or collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the designated boundary.

Feral animal means any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.

Fowl means poultry of any kind, including but not limited to chickens, pheasants, guineas, turkeys, peacocks, ducks, and geese.

Impoundment means impoundment at a shelter or the taking or picking up and confining of an animal by an officer under the provisions of this chapter.

Legal responsibility means, for the purpose of this chapter, the owner as hereinafter defined shall be considered legally responsible for:

(1) The actions of an animal; and

(2) The care of an animal.

In the absence of written proof of ownership, all adult members of the household shall be considered legally responsible.

Litter means the offspring produced at one birth by a mammal that normally bears several young during a delivery.

Livestock means all animals of the equine, bovine, ratite or swine class. This includes goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

Officer means any law enforcement officer or any animal control officer.

Owner means any person, partnership, corporation or other legal entity owning, harboring, or keeping any animal, or in the case of a person under the age of 18 years of age, that person's parent or legal guardian. This definition shall not apply to any veterinary clinic or boarding kennel.

Proper shelter for an outdoor animal shall include but is not limited to a permanent structure with four sides, a top and a bottom. The structure shall have a waterproof roof, be structurally sound, and shall be sufficiently insulated to protect the animal from the elements, with space to stand up, sit down, turn around and lie down in a normal posture. The structure and surrounding area needs to be free from trash or waste so as not to threaten the physical well being of the animal. Examples of inadequate shelter include, but are not limited to, lean-tos, metal drums, cardboard boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Scratch means that the skin has been penetrated by an animal's claws, horn, or other appendage.

Severe injury means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

Spayed or neutered means rendered permanently incapable of reproduction by a licensed veterinarian.

Unprovoked means any situation where the victim has been acting peaceful and lawful.

Veterinarian means a person trained and authorized to treat animals medically who is duly licensed and registered by the state under F.S. ch. 474 or the licensing area in which the veterinarian is practicing.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 1, 4-27-2016)

Sec. 4-3. - Provisions not applicable to state universities.

The provisions of sections 4-6, 4-7, 4-32 and article II, division 2 of this chapter shall not be applicable to research and instructional programs conducted by universities registered with the United States Department of Agriculture.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-4. - Interference with enforcement; breaking into official property.

No person shall:

(1) Interfere with, hinder or molest any police officer, animal control officer or other person in the performance of any duty required by this chapter.

(2) Refuse to surrender an animal upon lawful demand by any police officer, animal control officer, or other authorized person in the performance of any duty required by this chapter.

(3) Harbor, hide, or conceal any animal that the police officer or animal control officer has deemed to be in violation of this article.

(4) Break open or assist in the breaking open of any of the fences, gates, fastenings or enclosures of facilities and vehicles maintained by Tallahassee animal services; and no unauthorized person shall remove or release any animal from animal services property, vehicles, live traps or other sites designated for official animal care functions.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-5. - Keeping livestock or fowl.

(a) *Prohibited.* Except as otherwise provided in this chapter, it shall be unlawful for any person to keep within the city any livestock or fowl.

(b) *Special permits.* Notwithstanding the provisions of subsection (a), the city commission may, by special permit, authorize the keeping of livestock or fowl of any kind or nature for exhibition and display purposes at any place within the city limits which may be approved by the commission under the provisions of all ordinances, sanitary rules and regulations, and such rules and regulations as may be promulgated by an ordinance or rule or regulation of the city commission or the city manager.

(c) *Violations.* Any person who shall keep livestock or fowl within the limits of the city in violation of this section, or after a permit which has been issued to him has been revoked, or shall otherwise fail to comply with the provisions of this section or any rule or regulation promulgated hereunder by the city commission or the city manager, shall be guilty of a violation of this Code. Any animal kept in violation of this section may be impounded by appropriate authority.

(d) *Exceptions.* This shall not apply to:

(1) Any bona fide research and instructional programs conducted by any university entirely on university property, or to any government project instituted specifically for the control and management of invasive plant growth within the city limits.

(2) The keeping of female chickens (hens) for non-commercial purposes so long as they are confined in a securely enclosed yard or pen at all times and are kept no closer than 20 feet to neighboring dwellings. In addition, a single rooster may be kept in conjunction with said hens for the purpose of flock sustainability.

(3) Any horse or fowl kept on tracts of land within the city limits that consist of five or more contiguous acres or any other livestock kept on 15 or more contiguous acres.

(4) Any livestock or fowl that can be shown by the owners to have been permanently and lawfully residing in the city at the time of passage of the ordinance from which this chapter derives.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-6. - Cruelty.

(a) No person shall unnecessarily overload, overdrive, torture or torment, deprive of necessary sustenance or shelter, beat, mutilate, or inhumanely kill, or otherwise abuse any animal or cause or permit the same to be done.

(b) No person shall abandon any animal.

(c) Any person who commits any of the following acts shall be in violation of this section:

(1) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;

(2) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals;

(3) Attending the fighting or baiting of animals;

(4) Providing or allowing property for use in the housing, training, transport, fighting or baiting of animals.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-7. - Animal care.

(a) No owner shall fail to provide his animals with water, good and wholesome food appropriate to the species, proper shelter and protection from the weather at all times, veterinary care, sufficient exercise and humane care and treatment.

(b) The owner or caretaker of an animal shall provide clean water for the animal in a sufficient quantity to maintain the animal in a healthy condition. Water shall be provided at all times in a stable container that is sized appropriately for the animal's species and breed.

(c) Owners and caretakers of animals shall provide all health related grooming, cleaning and parasite control required to ensure that the animals are maintained in a humane state and able to carry out normal activities.

(d) The owner or caretaker to any sick or injured animal shall seek veterinary care when needed to prevent suffering.

(e) No person, except a licensed veterinarian, shall crop or cut a dog's ears and/or tail or otherwise disfigure any animal.

(f) No person shall dye or color artificially any animal.

(g) Chickens, ducklings, other fowl younger than four weeks of age, or rabbits younger than two months of age, may not be sold in quantities of less than 25 to a single purchaser.

(h) No person shall give away any live animal as a prize for or as an inducement to enter any contest, game or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(i) No person shall display, give away, or offer for sale any live animal on private property without consent, or public land, right of ways, or easements except in areas that have been authorized and permitted by the city for such use.

(j) Any person who, as the operator of a motor vehicle, strikes a dog or cat shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner, if known, and shall at once report the accident to the appropriate law enforcement agency or to animal services. If the animal is deceased, the operator is responsible for contacting Tallahassee's Solid Waste Services, or other city designated organization responsible for collecting animal remains, on or before the next day to report the location of the remains.

(k) *Hurricanes and natural disasters.* It shall be the responsibility of each pet owner and caretaker to provide adequate water, food, shelter and health care for their animal(s) during hurricanes and other natural disasters and to responsibly evacuate them when necessary.

(l) *Tethering.* No person shall under any circumstances tether or otherwise confine any animal in a manner that is injurious to the animal's health, safety and well-being. Tethering of an animal is prohibited during severe weather occurrences and natural disasters, including extreme heat, extreme cold, flood, hail, fire, tornado, hurricane or blizzard.

Proper and humane tethering includes, but is not limited to the following:

(1) The tether shall be attached to a properly fitted collar or harness. The use of a choke chain or prong collar is prohibited.

(2) The tether shall not extend over an object or edge in such a manner that could result in strangulation of or injury to the animal. The length of the tether must be a minimum of six feet and allow entry and egress from proper shelter, access to drinking water, and freedom to move about and avoid area of animal waste.

(3) The weight or gauge of any tether or chain shall not be more than necessary to establish direct control. Logging chains and vehicle tow chains are expressly prohibited. No person shall add any weight to an animal collar, harness, chain or tether.

(4) No animals shall be tethered on a vacant or abandoned property.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-8. - Exhibition and performing animals.

(a) In any performing animal exhibition, it shall be unlawful to use any substance or device which induces an animal to perform by causing pain, suffering or discomfort.

(b) It shall be unlawful for any person to stage, promote or engage in any combat between animals or between animals and humans which by its nature causes pain, suffering and discomfort.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-9. - Animals in motor vehicles.

(a) Any animal being transported or kept in the open bed of a vehicle shall be restrained by one or more tethers fixed to the vehicle and attached to the collar or harness being worn by the animal in a manner that will prevent the animal from falling, being thrown, or jumping from the vehicle. The animal may also be safely enclosed within the cab of the vehicle or within a container or cage.

(b) It shall be unlawful for any person to transport, place or confine an animal or allow it to be placed or confined in the enclosed trunk of a vehicle.

(c) It shall be unlawful for a vehicle owner or operator to place or confine an animal or allow it to be placed or confined or to remain in a vehicle without sufficient ventilation or under conditions for such a period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water, or such other circumstances as may reasonably be expected to cause suffering, disability or death of the animal.

(d) Officers finding an animal under the conditions referenced above may rescue such animal from the vehicle following the policy established by animal services.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-10. - Animal nuisances.

(a) The actions of an animal constitute a nuisance when it unreasonably annoys humans, endangers the life or health of other animals or persons, or damages or substantially interferes with the use and enjoyment of property rights of citizens.

(b) It shall be a violation of this section for any person to own, keep, possess or maintain an animal in such a manner so as to constitute a public nuisance, regardless of the knowledge, intent or culpability of the owner. Examples of public nuisance include but are not limited to the following:

(1) Any animal that habitually barks, whines, howls, crows or cackles in an excessive, continuous or untimely fashion or makes other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(2) Any animal that damages the property of anyone other than its owner, including but not limited to turning over garbage containers or damaging vehicles, gardens, flowers or other plant material, or depositing fecal material.

(3) Any animal at large in any of the streets, public ways, public places, parks, or upon private premises of any other person than the owner of the animal.

(4) Any animal that is kept or harbored in a manner that causes unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises, such as odor related to animals or cleaning agents or the attraction of flies, insects, or vermin.

(c) No person shall keep at his or her property more animals than can be properly maintained in a healthy condition.

(d) A citation for violation of this section may be issued based upon:

(1) Receipt of affidavits of complaint signed by two or more residents of the city, each residing at different addresses in the vicinity of the animal or incident. The affidavits shall set forth the nature and the time(s) and date(s) of the act(s), the owner of the animal(s), the address of the owner and a description of the animal(s) doing such act(s);

(2) The observance of noncompliance made by an animal control officer or a law enforcement officer during the course of the lawful performance of his/her duties; or

(3) Relevant information gathered during the course of other animal control investigations and activities and information shared by law enforcement agencies.

(e) Such nuisance may be abated in the following manner:

(1) Upon the first occurrence of a violation of any of the sections, the owner or caretaker may, at the discretion of the investigating animal control officer or law enforcement officer, be given written notification by the city that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable efforts to abate the nuisance, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal to become a public nuisance.

(2) If there are two or more citations given for violations within a 12-month period on the same premises, the city attorney is authorized to seek an injunction in the name of the city from the appropriate court to abate the nuisance.

(3) Adjudication of guilt, withholding of adjudication, or plea of no contest (including, but not limited to, payment of fine) in a 12-month period for two violations on the same premises, plus a third such citation within the 12-month period, shall be presumptive evidence of a public nuisance. However, the judge may find a public nuisance without such presumptive evidence based on other evidence presented.

(4) The judge may fashion an injunction that will abate the particular nuisance being found, up to and including removal of one or more animals from the premises.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-11. - Removal of animal waste.

(a) The owner of any animal shall be responsible for the removal of any excreta deposited by his/her animal on public walks, recreation areas, public streets, or private property other than the premises of the owner of the animal.

(b) The owner of any animal shall remove animal waste from his or her property if it poses a threat to the health, safety or well being of any animals or persons.

(c) This section shall not apply to disabled persons accompanied by a service animal used for assistance in accordance with the law.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-12. - Electronic fence.

(a) Electronic fences are considered direct control when the dog is wearing the electronic collar and the electronic system is properly placed and functioning.

(b) An electronic fence shall not be closer than ten feet to any public sidewalk or property line.

(c) Residents who use an electronic fence shall clearly post their property to indicate to the public that an animal is confined to the property by an electronic fence or electronic collar.

(d) An electronic fence does not exempt an owner if the animal violates any other provision in this chapter.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Secs. 4-13—4-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT[2]

Footnotes:

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Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 4-31. - Animal control enforcement authority.

The city manager is authorized, empowered and directed to appoint and employ a person or persons of and for the city, as enforcement officers for this chapter. The city commission may enter into a contract for the enforcement of this chapter and shall cooperate with the county health officer and the county rabies control program.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-32. - Right of entry.

(a) All city animal control officers and other authorized agents of animal services shall have the right to enter upon any public or private property within the city, except a building and/or a secure fenced area designated and used for residential purposes, for the purpose of investigating, pursuing, examining, rescuing or capturing any animal in violation of this chapter.

(b) When entering or conducting official business on private property, employees and agents of animal services shall have appropriate identification with them that identifies them as city-authorized enforcement officers. Tallahassee animal services employees and agents shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property as authorized by this chapter.

(c) This right of entry shall not extend to university research and instructional facilities registered with the United States Department of Agriculture.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-33. - Animal services rules and regulations.

The animal services director is authorized to establish, in writing, rules, regulations, and standards as are deemed necessary to accomplish the purposes of this chapter. The director shall have the authority to enforce such rules, regulations, and standards as may be established.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-34. - Immunity from liability.

Any employee of the city or law enforcement officer who acts in good faith and in substantial compliance with the requirements of this chapter shall be immune from any criminal or civil liability.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Secs. 4-35—4-50. - Reserved.

DIVISION 2. - CITATIONS[3]

Footnotes:

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State Law reference— Citations for violations of animal control ordinances, F.S. 828.27.

Sec. 4-51. - Issuance of citation; impoundment of animal.

An animal control officer or other law enforcement officer upon observing a violation of this chapter, or having probable cause to believe a violation of this chapter has occurred, may do the following:

(1) Issue a verbal or written warning to the owner or keeper of the animal indicating the nature of any complaint or violation and actions required to become compliant;

(2) Issue a citation to the owner or keeper of the animal, provided that the citation contains the information required by F.S. § 828.27; For any violation of section 4-9, animals in motor vehicles, the citation may also be issued to the driver or registered owner of the vehicle.

(3) Impound the animal that is the subject of the violation.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-52. - Schedule of fines.

(a) Payment of fine. Any person to whom a citation for violation of this chapter is issued shall either:

(1) Pay the fine by the designated date as indicated on the citation;

(2) Successfully complete a basic animal care course as established by animal services; or

(3) Appear in county court at the date, time and location determined by the county clerk of court. The requirement for community service under F.S. § 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

(b) Responsible pet ownership course. Animal services may authorize and establish an educational program aimed at teaching responsible pet ownership. When such a program becomes available any person who is cited for an infraction under this section, other than for a violation involving an attack on a human or animal, may elect to attend in lieu of a court appearance. The person cited for the infraction shall be responsible for any cost associated with attending the course. This course must be successfully completed within 90 days of the receipt of the citation. Pending completion of the course, adjudication will be withheld and the civil penalty waived; however, a person may not make an election under this subsection if the person has successfully completed this course within the preceding 12 months. A person may make no more than three elections under this subsection.

(c) Minimum civil penalties for infractions:

(1) First infraction $50.00

(2) Second infraction 100.00

(3) Thereafter 250.00

(4) Violation of section 4-6 (cruelty), section 4-7 (animal care), and section 4-9 (animals in motor vehicles):

a. First infraction 250.00

b. Thereafter (Mandatory court appearance and fine) 500.00

(5) Violation of section 4-8:

First infraction (Mandatory court appearance and fine) 500.00

(6) Minimum civil penalties for violations which result in the destruction or loss of personal property are as follows:

a. First infraction 100.00

b. Second infraction 250.00

c. Thereafter (Mandatory court appearance and fine) 500.00

(7) Minimum civil penalties for violations which result in the unprovoked biting, wounding, or attacking of a domestic animal or person are as follows:

a. First infraction (person without injury) 250.00

b. First infraction (person with injury) 450.00

c. First infraction (animal) 250.00

d. Thereafter (Mandatory court appearance and fine) 500.00

(8) Minimum civil penalties for violation of any provision pertaining to dangerous animals which does not result in injury to a person or domestic animal are as follows:

a. First infraction 250.00

b. Thereafter (mandatory court appearance and fine) 500.00

(9) The maximum civil penalty for each violation of this article shall be 500.00

(10) If a person to whom a citation is issued does not contest the citation and elects to pay the applicable civil penalty in lieu of appearing in county court, the civil penalty shall be less than the maximum civil penalty.

(11) Penalties shall be in addition to court costs as established by the county court.

(d) Any person electing to appear or required to appear waives his right to pay the minimum penalties as described in this section.

(e) Penalties shall be in addition to court costs as established by the county court.

(f) All violations shall be recorded by owner, not by animal.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-53. - Mandatory court appearance for aggravated violations.

A mandatory court appearance may be required for any of the following:

(1) Third and subsequent violations of this chapter;

(2) Violations that result in the destruction or loss of personal property;

(3) Violations which result in the unprovoked biting, wounding, attacking or killing of a person or domestic animal; or

(4) Second or subsequent violation of sections 4-6, 4-7, or section 4-9.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-54. - Procedure upon citation.

(a) Any person cited for a violation of this chapter shall be deemed to be charged with a civil infraction and may be required to appear in county court.

(b) Any person cited for an infraction under this chapter must sign and accept a citation indicating a promise to:

  (1) Pay the applicable civil penalty within 30 days of issue; or

  (2) Successfully complete a basic animal care course as described in section 4-52; or

  (3) Appear in county court within 30 days of issue to receive a trial date, time and location determined by county court.

(c) Any person who willfully refuses to accept and sign the citation shall be in violation of this article and F.S. § 828.27, and shall be subject to the penalties as described in this chapter.

(d) If the person cited pays the applicable civil penalty in lieu of appearing in county court, he shall be deemed to have admitted the infraction and to have waived his right to a hearing on the issue of commission of the infraction.

(e) No person to whom a citation has been issued which requires a mandatory court appearance may pay the civil penalty in lieu of appearing in county court.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-55. - Surcharge.

A surcharge of up to $5.00 shall be added to each civil penalty imposed for violation of this chapter. The proceeds from such surcharge shall be restricted to the use for standard training for animal control officers.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-56. - Failure to pay civil penalty.

If a person fails to pay the civil penalty by the designated date, fails to successfully complete a basic animal care course, fails to appear in court to contest the citation, or fails to appear in court as required by this article, the court may issue an order to show cause upon the request of the city commission. This order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court. For the purpose of requesting an order to show cause under this section and F.S. § 828.27(2)(f), the city commission may delegate its authority to the city attorney.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Secs. 4-57—4-75. - Reserved.

DIVISION 3. - IMPOUNDMENT

Sec. 4-76. - Animals to be impounded.

(a) Animal control officers shall have the authority to capture and/or impound any animal in violation of this chapter including, but not limited to:

(1) Any animal running at large as previously defined.

(2) Any animal that has not received inoculations required by this chapter, applicable county, state, or federal law.

(3) Any animal required to be inoculated but not wearing a tag as evidence of such inoculation as provided in section 4-124.

(4) Any female animal in heat that is not confined in a proper enclosure as provided in section 4-104.

(5) Any dangerous dog that is not confined in a secure enclosure as provided in this chapter.

(6) Any animal suspected or believed to be infected with rabies or any other infection or contagious disease.

(7) Any animal that is a victim of cruelty or is not being maintained consistent with animal care standards as provided by this chapter.

(8) Any livestock in violation of section 4-5.

(b) Animal control officers may issue to the known owner or keeper of such animal a warning notice or citation in lieu of impounding an animal, as provided in article II, division 2 of this chapter.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 2, 4-27-2016)

Sec. 4-77. - Safekeeping after impoundment.

When animal control officers catch any animal as described in this chapter, they may impound the animal at a suitable place and keep such animal impounded until all charges have been paid or until such animal shall be disposed of as provided in this chapter.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-78. - Impounding fees, deposits and charges.

(a) The charges or fees for impounding, keeping, or treating any animal shall be set by the city commission by resolution.

(b) All fees shall be collected at a location or locations designated by Tallahassee animal services.

(c) No animal that is required to be vaccinated for rabies will be released from city impoundment without a current rabies vaccination or payment of a deposit for vaccination. In order to release an animal for which animal services has no record of current vaccination, the owner and/or agent must:

(1) Produce verifiable evidence of current rabies vaccination prior to release;

(2) Pay a deposit and agree to have the animal vaccinated within 72 hours. The deposit will be refunded after receipt of proof of vaccination in a manner and time frame determined by city policy; or

(3) In the case of animals that have not reached appropriate age, weight or other state of health to receive vaccination, pay a deposit and agree to have the animal vaccinated as soon as it is medically viable. The deposit will be refunded after receipt of proof of vaccination in a manner and time frame determined by city policy.

(d) Animal services may refund a portion of the impounding fee if the owner provides proof that the animal was surgically sterilized within 30 days of release.

(e) The owner of an impounded animal shall be responsible for all costs associated with any damage to, or destruction of, city property occurring during pursuit or capture of the animal. Costs shall be

reimbursed in an amount that will repair or replace items at the time the damage or destruction occurred. Payment of these costs may be required prior to release of the animal from impoundment.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-79. - Release of impounded animals.

(a) Except as otherwise provided by state law or other provisions of this chapter, the owner of any animal which has been impounded may claim such animal by complying with the provisions of this chapter and paying any fees or charges within a period of six calendar days from the date of impoundment. All authorized charges must be paid prior to the release of any animal reclaimed by the owner or adopted by a new owner.

(b) No animal which has been classified as dangerous, or which has been involved in an unprovoked bite or attack on a person or domestic animal shall be placed for adoption. An animal involved in a provoked bite or attack on a person or domestic animal may be placed for adoption only with prior approval of the animal services director, to be determined on a case-by-case basis.

(c) No animal shall be released from animal services to an owner who has failed to timely pay or otherwise resolve an outstanding animal control citation without satisfactory proof of resolution.

(d) All animals that are reclaimed from the shelter shall be implanted with a microchip. The cost of the microchip may be assessed to the owner at the time the animal is redeemed.

(e) All animals that are reclaimed from the shelter, upon the second offense shall be spayed or neutered within 30 days of reclaim. The costs of spaying or neutering shall be the responsibility of the owner. A deposit may be required prior to release of the animal to the owner. The deposit will be refunded after receipt of proof of spay or neuter in a manner and time frame determined by city policy.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-80. - Holding periods, quarantine and reclaims.

(a) Animals impounded for any violation of this chapter shall be held for a period of six calendar days from the date of impoundment.

    (1) The owner may not reclaim their pet if continued custody is required by law enforcement, State's Attorney, judiciary or other authority.

    (2) The owner may not reclaim their pet if the conditions into which they will be returned are found to be in violation of this chapter.

    (3) The owner may not reclaim their pet if it is under quarantine for rabies or other communicable disease. If fines are paid and other conditions of this chapter are met the owner may transfer the animal to a private boarding facility for the remainder of its quarantine period. All charges related to transfer and private boarding are the responsibility of the owner. After the quarantine period, such animals shall be released only by specific authorization of the county health officer.

(b) Animals not claimed at the end of the sixth calendar day shall become the property of the City of Tallahassee and may be adopted, fostered, transferred or euthanized. Exceptions:

    (1) Animals that are unweaned, impounded as part of a litter, or are feral are not required to be held unless they are wearing identification, are microchipped, or otherwise marked in a manner that suggests they may be owned.

    (2) Due to the historically low reclaim rate and high euthanasia rate for cats, all community cats shall be made available immediately upon impound for adoption, transfer, foster, or other live release as approved by the animal services director in accordance with section 4-33.

(3) Animal Services is authorized, directed and empowered to, at any time, destroy in a humane manner any impounded animal that is seriously diseased, injured, or is dangerous to keep.

(c) Any animal placed in confinement that may be rabid or suspected of being rabid shall remain under observation for a period of not less than ten days (at the owner's own expense). Animals that are placed in confinement for a bite or scratch shall remain under observation for a period of ten days from the date of a bite or scratch. Such animals shall be released only by specific authorization of the County health officer.

(d) Any animal that appears sick becomes the responsibility of the health officer if it is advisable to confine such animal for the usual period for observation of rabies or otherwise dispose of such animal. Any animal that is undisposed of shall be put to death by sodium pentobarbital or in some other humane manner.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 3, 4-27-2016)

Secs. 4-81—4-100. - Reserved.

ARTICLE III. - DOGS AND CATS

DIVISION 1. - GENERALLY

Sec. 4-101. - Quarantine by proclamation authorized; publication.

The mayor, whenever he or she may apprehend danger of the existence or spread of rabies or other communicable disease, is hereby authorized and shall cooperate with the county health officer to issue and publish a proclamation requiring all dogs and cats on private premises to be quarantined in such a manner that the animal cannot come into contact with any other dog, cat or person. Such proclamation shall be published in a newspaper of general circulation published in the city, and shall become effective 24 hours after publication thereof.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-102. - Permitting violation of quarantine; police authorized to kill unconfined dogs and cats.

During the period of confinement or quarantine provided for in section 4-101, it shall be unlawful for the owner of any dog or cat in the city to allow such dog or cat out of effective confinement or quarantine, as provided in section 4-101. During the period of confinement or quarantine provided in section 4-101, it shall be unlawful for any dog or cat to run at large in the city, or to be found on either public or private premises free of effective confinement or quarantine, as provided in section 4-101. During the period of such quarantines, any sworn law enforcement officer is hereby authorized and empowered to kill any dog or cat found running at large in the city, or found not effectively confined or quarantined as provided by section 4-101.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-103. - Animals at large.

(a) The owner or custodian of an animal shall prevent such animal from running or remaining at large on any public street, road, alley, park or other public space.

(b) It shall be unlawful for any animal to run or remain at large upon any private property, whether under direct control or not, without the consent of that property administrator, owner, or legal tenant.

(c) No person shall tether an animal on public or private property, or in such a manner that the animal has access to public or private property, without the consent of that property administrator, owner, or legal tenant.

(d) The owner or keeper of any animal found at large shall be responsible for violation of this article. Any animal found at large may be impounded by the city.

(e) Exceptions. This section shall not apply to:

(1) Any animal that is specifically trained to assist or provide personal services for a disabled person, as defined under the Americans with Disabilities Act and is in the course of performing those services.

(2) Law enforcement dogs conducting official business.

(3) Authorized rescue and emergency dogs conducting official business.

(4) Owned cats when they are spayed or neutered, implanted with a microchip for permanent identification, and complying with all other provisions of this chapter.

(5) Ear tipped community cats.

(6) Dogs at city designated off-leash areas when under the immediate supervision of the owner and fully complying with all posted rules.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 4, 4-27-2016)

Sec. 4-104. - Confinement of female dogs and cats in heat.

(a) Prohibited. Every female dog or cat in heat shall be confined within a residence or well ventilated building or secure enclosure in such manner that such female dog or cat cannot come into contact with another male dog or cat, except for planned breeding.

(b) The female dog or cat in heat shall not be allowed outside a secure building or secure enclosure except for natural relief, transportation to a veterinarian, transportation to a specific place for the purpose of breeding, or for participation in a sanctioned event. The dog or cat may only be removed while under the direct control of a person 18 years or older.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-105. - Prohibition on feeding feral animals.

(a) *Prohibited* . Feral animals that have not been spayed or neutered and vaccinated against the rabies virus may constitute health and environmental risks to domesticated animals, wildlife, and persons. It is a violation of this section for any person to feed or harbor feral animals.

(b) *Violations* . Any person found in violation of this section shall be fined.

(c) *Exceptions* .

(1) A person may feed or harbor a feral animal if the animal is spayed or neutered and vaccinated against the rabies virus; or

(2) A person may feed or harbor a feral animal if they accept legal responsibility for the animal, which includes ensuring compliance with all provisions of this chapter; or

(3) A person may feed or harbor a feral animal if there is a good faith effort to humanely capture the animal for the purpose of spay, neuter, or surrender to animal services.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 5, 4-27-2016)

Sec. 4-106. - Unprovoked animal bites and attacks.

No animal shall commit an unprovoked bite or attack on a human or another domesticated animal. Any law enforcement or animal control officer may issue citation(s) to the owner and/or impound the offending animal if:

(1) An attack is personally witnessed, or

(2) The offending animal(s) can be identified by credible evidence, including, but not limited to, sworn witness statement(s), witness identification, forensic evidence, or other physical evidence.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-107. - Off-leash dog parks.

The city may choose to operate and maintain designated areas, or parks, within the city where responsible owners can allow their dogs to exercise and socialize off-leash. All users of city off-leash dog parks must adhere to the rules and regulations posted at entrance to the dog park area. Violators of posted rules are subject to ejection and forfeiture of off-leash dog park privileges. It shall be assumed that there is an inherent risk in allowing dogs to interact without direct control, so all participants that choose to use off-leash dog parks do so at their own risk of injury to selves and dogs. Persons making use of off-leash dog parks shall be responsible for injuries caused by their dogs to other persons and dogs. Persons responsible for any such injuries or property damage shall hold the city harmless for same.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Secs. 4-108—4-120. - Reserved.

DIVISION 2. - RABIES INOCULATION[4]

Footnotes:

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State Law reference— Rabies inoculations for dogs, cats and ferrets, F.S. § 828.30.

Sec. 4-121. - Inoculation required.

(a) The owner or caretaker of any cat, dog or ferret in the city shall cause such animal to be inoculated against rabies by a veterinarian licensed to practice veterinary medicine under the laws of the state.

(b) Every cat, dog and ferret four months of age or older shall currently be vaccinated against rabies with a U.S. Government approved rabies vaccine. Each animal shall be required to be vaccinated no more frequently than the effective period of the approved vaccine used. Vaccination is excused only if a licensed veterinarian certifies in writing that the vaccination would be injurious to the cat, dog or ferret's health. In such case, the cat, dog or ferret shall be confined to an enclosed building or kennel until the cat, dog or ferret can be safely vaccinated.

(c) Evidence of vaccination shall consist of a certificate signed by the veterinarian administering the vaccine and containing pertinent data for identification of the cat, dog or ferret. The rabies vaccination tag shall be displayed about the animal's neck at all times. Rabies vaccinations by a licensed veterinarian outside of the city shall be recognized as current rabies vaccinations in the city throughout the duration of the vaccine used.

(d) It is unlawful for the owner of a cat, dog or ferret to refuse to show proof of current vaccination of such animal within 72 hours of request for such information by an animal control officer or his representative.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-122. - Inoculation receipt, tag and records required.

Upon the inoculation of any cat, dog or ferret, the veterinarian inoculating such animal shall issue a receipt or certificate under his signature to the person causing the animal to be inoculated. The receipt shall contain the information required for rabies vaccination certificates by F.S. § 828.30; and the veterinarian shall furnish a numbered tag for each dog or cat so inoculated, which tag shall be worn by such dog or cat attached to a substantial collar or harness at all times. The receipt of the certificate required by this section shall be made in duplicate, and the veterinarian shall retain the duplicate copy for a period of three years from the date of issuance. Any veterinarian administering a rabies vaccination shall furnish the information contained therein to animal services as required by F.S. § 828.30.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-123. - Contents, form of tag.

All inoculation collar tags issued under the provisions of section 4-122 shall be numbered, shall bear the veterinarian's name, county and/or city, and the date of the current year and shall be of such size and shape as to be easily recognizable and distinguishable as to the year of issuance by members of the police department or an animal control officer as a lawful tag.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-124. - Wearing of tag.

(a) The tag required by this article shall be worn at all times, and shall only be worn by the particular cat, dog or ferret for which it was issued. It is unlawful for any person to remove the rabies vaccination tag of any currently vaccinated cat, dog or ferret unless:

    (1) The animal is participating in, or training for, a sanctioned event or legal sport under competent supervision; or

    (2) A licensed veterinarian directs in writing that the rabies vaccination tag be removed for health reasons. In such event, the animal shall be confined until the veterinarian permits the tag again to be returned.

    (3) The animal is a community cat that has been sterilized and vaccinated against the rabies virus as indicated by having the ear tipped.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 6, 4-27-2016)

Sec. 4-125. - Failure to have current tag.

A cat, dog or ferret not wearing a current tag as outlined in section 4-124 above shall be considered an animal at large or astray and is subject to impoundment.

(Ord. No. 10-O-15AA, § 1, 2-24-2010; Ord. No. 16-O-08, § 7, 4-27-2016)

Secs. 4-126—4-140. - Reserved.

DIVISION 3. - DANGEROUS DOGS[5]

Footnotes:

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Cross reference— Environment, ch. 9.

State Law reference— Dangerous dogs, F.S. § 767.10 et seq.

Sec. 4-141. - Dangerous dog classification.

(a) Any dog classified as dangerous according to the definitions in this chapter shall be, at the time of being so classified, either confined permanently to the owner's premises in accordance with section 4-145, or humanely destroyed.

(b) No dog shall be classified as dangerous if the threat or injury was sustained by a person who, at the time, was committing or attempting to commit a tort or a crime upon the owner of the dog; or who was teasing, tormenting, assaulting or abusing the dog or its owner or a household member.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-142. - Petition procedures.

(a) The city, county or any adult person may request under oath that a dog be classified as dangerous as defined in this article by submitting a petition for classification of a dangerous dog, hereinafter called the "petition", to animal services.

(b) Upon receipt of such petition, animal services shall notify the owner of the dog that a petition has been filed and that an investigation into the allegations as set forth in the petition will be conducted. Criteria considered in such investigations shall include but not be limited to the following: provocation, severity of attack or injury, previous aggressive history of the dog, observable behavior of the dog, site and circumstances of the incident, and testimony from interested parties, etc.

(c) Any dog that is the subject of a dangerous dog investigation may be impounded at the owner's expense pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. If not impounded by animal services, any dog that is the subject of a dangerous dog investigation must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification.

(d) No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification.

(e) After the investigation, animal services shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous. If the dog is determined dangerous by animal services, notice of the determination as dangerous shall be delivered in writing to the owner of the dog at the owner's last known address. Any dog that was not previously impounded shall be impounded upon an initial determination as dangerous.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-143. - Dispute of determination; hearing.

(a) The owner may file a written request for a hearing to appeal the classification within seven days after receipt of the sufficient cause finding. The written request for a hearing shall be filed with the city attorney's office.

(b) Upon receipt of a named owner's timely request for an administrative hearing, a hearing shall be scheduled within 21 days, but no sooner than five days after receipt of the request from the owner.

(c) A notice of hearing shall be sent by first class mail or hand delivered to the named appellant at his or her last known address. The notice of hearing shall include but not be limited to the following:

(1) Place, date and time of the hearing.

(2) Right of violator to present his case by oral or documentary evidence.

(3) Right of violator to be accompanied, represented, and advised by his own counsel.

(4) Right of violator to offer the testimony of witnesses.

(5) Notice that failure of violator to attend hearing may result in costs being assessed against him or her.

(6) Requests for continuances will be considered only if good cause is shown prior to the day set for hearing.

(d) The dangerous dog appeal board shall conduct the hearing at the time and place indicated in the notice of hearing. The dog determined to be dangerous shall remain impounded by the city at the owner's expense pending the disposition of the hearing. The location of such impoundment shall be in accordance with the rules and regulations established by the city. The dangerous dog appeal board shall be comprised of three members who represent local veterinarians, citizens, and the city police department.

(e) The nature of the hearing shall be non-adversarial and informal in form, providing the owner and representatives of animal services with an opportunity to be heard. Following the hearing, the dangerous dog appeal board shall submit a written final decision on the matter and provide a copy of the written final decision to the owner and the director of animal services.

(f) If the dangerous dog appeal board confirms that the dog is dangerous as defined in this chapter, and the owner disputes the determination, he or she may file a complaint seeking relief in the county court within 14 days following the date of receipt of notification.

(1) The complaint shall be served upon the city attorney's office in accordance with F.S. ch. 48. A copy of the complaint seeking relief shall be served upon the director of animal services.

(2) The complaint shall comply with the standards and requirements set forth in the Florida Rules of Civil Procedures for bringing causes of action.

(3) Burden of persuasion. A complaint to contest the final determination of the appeal board shall be held by trial de novo in the county court. The party bringing the complaint shall have the initial burden of going forward with the evidence at trial.

(4) If no legal action has been served upon the city within the time period specified above, or if the owner or keeper fails to appear at the judicial proceeding scheduled pursuant to the foregoing

subpart, the owner or keeper shall be deemed to have waived his or her right to protest such determination to permanently confine or to destroy the dog. In such case, the city shall dispose of the dog.

(g) If the dangerous dog appeal board or the county court finds that the dog is not dangerous as defined in this chapter, the dog shall be released to the custody of the owner or keeper upon payment of all appropriate fees, who shall claim the dog no later than 72 hours from the time of the entry of the order finding the dog not dangerous.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-144. - Control of dangerous dogs.

(a) All dangerous dogs that are not humanely destroyed shall be confined in a proper enclosure for dangerous dogs. It shall be unlawful for any owner or keeper of a dangerous dog to maintain such dog upon any premises that does not have a proper enclosure in which to confine the dog.

(b) Confined outdoors. All dangerous dogs shall be securely confined in an enclosed and locked pen or kennel, except when leashed and muzzled as provided by this section. Such pen, kennel or structure shall be at least ten feet by ten feet in size must have a concrete foundation, sides attached to the concrete and a secure top attached to the sides to prevent the dog from escaping over, under or through the structure. All structures used to confine dangerous dogs must be locked with a key or combination lock when such animal is within the structure. Such structure must not be positioned so that neighbors and passers by have access to the dog and must be located no less than 20 feet from any adjoining property.

(c) Confined indoors. No dangerous dog may be kept on a porch, patio or in any portion of a house or structure that would allow the dog to exit such building on its own volition. In addition:

(1) No such animal may be kept in a house or structure when screen doors or windows are the only obstacles preventing the dog from exiting the structure.

(2) Doors behind which a dangerous dog is confined must be strong enough to contain the dog and must remain locked except to allow access and egress of the owner and their agents.

(d) The proper enclosure shall include suitable shelter and protection from the elements and shall provide adequate exercise room, light, ventilation and sanitation.

(e) It shall be unlawful for any owner or keeper to allow any dangerous dog to be outside of the proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such case, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(f) Whenever the dangerous dog is outside of the enclosure, it shall be restrained by an adult capable of controlling the dog and shall be on a chain of sufficient tensile strength not more than three feet in length.

(g) The owner or keeper shall display clearly visible warning signs on all entry points to the premises on which a dangerous dog is maintained warning both children and adults that a dangerous dog is harbored on such property. In addition, at least one sign shall be posted on the enclosure in which the dangerous dog is maintained.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-145. - Liability insurance, surety bond or cash fee.

The owner or keeper of a dangerous dog shall present to the city proof that he or she has procured liability insurance or surety bond in the amount of not less than $100,000.00, covering any damage or

injury which may be caused by such dangerous dog. Such insurance policy shall contain a provision requiring that the city be notified immediately by the agent issuing the policy in the event that the insurance policy is canceled, terminated or expires. Liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep such dangerous dog. The owner or keeper shall sign a statement attesting that he or she shall maintain and not voluntarily cancel the liability insurance policy during the 12-month period for which a permit is sought, unless he or she ceases to own or keep the dangerous dog prior to the expiration date of the permit period. In the event that the owner proves to the satisfaction of the city that insurance is not available, he may pay a nonrefundable cash fee in the amount of $1,000.00.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-146. - Certificate of registration required.

(a) Within 72 hours after a final classification of a dog as dangerous by the city, or a dangerous dog classification is upheld by the county court on appeal, or the relocation of a classified dangerous dog to the city limits, the owner of the dog must obtain a certificate of registration for the dog from animal services. The owner must renew the certificate annually.

(b) Animal services shall administer and operate the dangerous dog certification process.

(c) The fee for such certificate shall be $100.00 per year. Certificates of registration and renewals thereof shall only be issued to competent persons who are at least 18 years of age and who present sufficient evidence:

    (1) Of a current certificate of rabies vaccination for the animal.

    (2) That the dog shall be confined in a proper enclosure for a dangerous dog, as defined in this article, and that the premises are posted with a clearly visible warning sign at all entry points, which informs both children and adults of the presence of a dangerous dog on the property.

    (3) Of microchip implantation for permanent identification of the dog, obtained at the owner's expense.

    (4) Two color photographs of the animal in two different poses showing the color and size of the animal.

    (5) Surgical sterilization of the animal.

(d) At the time the certificate is issued, a red circular tag shall be issued to the owner or the keeper of the dangerous dog. Such tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.

(e) The certificate for maintaining a dangerous dog shall be presented to any animal control or law enforcement officer upon demand.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-147. - Notification of change of status.

(a) The owner or keeper of a dangerous dog shall notify animal services immediately if such dog escapes from its enclosure or restraint and is at large, or if it bites or attacks a person or domestic animal, or if it dies. If the dog dies, satisfactory proof of such death must be provided to the city within 48 hours. Satisfactory proof shall be either verification from an animal shelter or a veterinary hospital that the dog was euthanized, or verification from an officer that he or she has witnessed the body of the dog.

(b) If the owner or keeper of a dangerous dog intends to change his address or sell, give away or trade any dangerous dog, he shall notify animal services prior to such change of address, sale, transfer or trade. The owner or keeper shall provide the city with the new address or the name, address and

phone number of the person receiving the dog, as well as the location at which the dog will be maintained. Further, it shall be the responsibility of the owner to notify the person receiving the dangerous dog in writing of the classification of the dog as dangerous.

(c) Any person receiving a dog classified as dangerous must obtain the required certificate, tag and enclosure prior to the acquisition of the dog. Any person obtaining a dog classified as dangerous shall comply fully with the provisions of this chapter pertaining to fee payment and to the maintenance, control and ownership of a dangerous dog.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-148. - Spaying or neutering of dangerous dogs.

Any dog classified as dangerous shall not be used for breeding. Dogs classified as dangerous shall be spayed or neutered by a licensed veterinarian prior to issuance of certificate of registration unless:

(1) A licensed veterinarian certifies in writing that the dog is incapable of reproduction; or

(2) A licensed veterinarian certifies in writing that spaying or neutering the dog would be injurious to the dog's health; provided, however, that if the health condition of the dog is of a temporary nature, then the dog shall be spayed or neutered immediately after the health condition has been corrected.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-149. - Microchip required for a dangerous dog.

(a) Any dog classified as dangerous shall have a microchip implanted by, or under the supervision of, a licensed veterinarian at the expense of the owner or keeper of such dog.

(b) The microchip shall be implanted in the dog prior to its release from the custody of animal services.

(c) Microchips implanted in dogs designated as dangerous shall be properly registered with a company or organization recognized by animal services as a legitimate pet data tracking service. Registration shall be at the owner's expense.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-150. - Citation for violation.

An animal control or law enforcement officer shall issue a citation requiring a mandatory court appearance to any owner or keeper of a dangerous dog found in violation of any of the provisions of this chapter. In addition to the issuance of a citation, an officer may impound such dog when it is found in violation of any of the provisions of this chapter.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-151. - Procedure upon attack subsequent to classification.

(a) If a dog that has previously been declared dangerous bites, wounds, attacks or assists in biting, wounding, or attacking any person or domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree. The dog shall be placed in quarantine, if necessary, for the proper length of time, or impounded and held for 14 days after the owner is given written notification, and thereafter destroyed in an expeditious and humane manner. This 14-day time period shall allow the owner to apply to a court of competent jurisdiction for any remedies that may be available. The

owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any legal proceeding.

(b) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree. The dog shall be immediately confiscated, placed in quarantine, and held for 14 days after the owner is given written notification, and thereafter destroyed in an expeditious and humane manner. This 14-day time period shall allow the owner to apply to a court of competent jurisdiction for any remedies that may be available. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any legal proceeding.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)

Sec. 4-152. - Severe injury or death by a dog not classified as dangerous.

An officer shall impound any dog that aggressively attacks and causes severe injury to or death of any human. The dog shall be placed in quarantine, if necessary, for the proper length of time, or impounded and held for 14 days after the owner is given written notification, and thereafter destroyed in an expeditious and humane manner. This 14-day time period shall allow the owner to apply to a court of competent jurisdiction for remedies that may be available. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any legal proceeding. In addition, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the animal is guilty of a misdemeanor of the second degree. The owner shall also be fined.

(Ord. No. 10-O-15AA, § 1, 2-24-2010)