

Chapter 14 - ANIMALS

Footnotes:

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Cross reference— *Animals on beach, § 20-113; health and sanitation, ch. 58.***State Law reference**— *Powers of chartered counties, Fla. Const. art. VIII, § 1(g); livestock at large, F.S. ch. 588; cruelty to animals and related matters, F.S. ch. 828.*

ARTICLE I. - IN GENERAL

Secs. 14-1—14-30. - Reserved.

ARTICLE II. - ANIMAL CONTROL

Footnotes:

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Editor's note— *Ordinance No. 83-12, adopted Aug. 18, 1983 (effective Oct. 1, 1983), § XIII, stated that all other ordinances dealing with animal control within the unincorporated areas of the county, except ordinances prohibiting animals on ocean beaches, were superseded. Such ordinance supersedes ordinances providing for animal control within the Deltona Area Municipal Services Subdistrict (Ord. No. 79-37, adopted May 17, 1979), the Halifax Area MSD (Ord. No. 79-49, adopted Nov. 1, 1979), the Silver Sands-Bethune Beach MSD (Ord. No. 81-3, adopted Feb. 5, 1981) and the Southeast Volusia MSD (Ord. No. 81-4, adopted Feb. 5, 1981). Subsequently, these districts were specifically abolished by § III of Ord. No. 84-16, adopted Sept. 20, 1984. Subsequently, § XXVII of Ord. No. 87-33, adopted Nov. 19, 1987, repealed Ord. Nos. 83-12, 84-3 and 86-8. Ord. No. 87-33 was amended by Ord. Nos. 89-4, 89-28, 89-46, 90-12 and 91-8 and was repealed by Ord. No. 91-33.*

State Law reference— *Local animal control ordinances, F.S. § 828.27.*

Sec. 14-31. - Definitions.

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

Adult animal means any dog or cat over the age of six months.

Animal for the purpose of enforcement by animal control officers acting pursuant to this article in the unincorporated areas of the county, and any included municipality, shall mean dogs and cats.

Animal control authority means the county manager and the animal control division or its successors acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county, or state. The Volusia County Sheriff's Office may also carry out the duties of the animal control authority under this article.

Animal control division means the enforcement and investigative agency of the county relating to the provisions of this chapter.

Animal control officer means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this article, ordinance or any other law or act relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

Animal exposed to rabies means any animal bitten by or that has associated with any animal determined by the county health officer or the animal control officer to be infected with rabies.

Animal quarters means the premises and all buildings, pens, yards and their appurtenances used for the keeping of dogs and cats.

Approved standard means the standard by which a dog or cat is judged for conformation by the appropriate national or international breeders' organization.

Cat means any feline.

Chain, cable and trolley, rope or tether means a restraint of sufficient strength to hold the animal.

Dangerous dog means any dog that according to the records of the animal control authority:

- (1) Has aggressively bitten, attacked, endangered, or has inflicted severe injury to or death of a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off its owner's property;
- (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 the animal control authority.

Dog means any canine.

Dog under restraint shall mean any canine secured by a leash, chain, rope, tether or cable and trolley; securely and humanely confined within a vehicle, parked or in motion; caged or tethered in the open bed of a pickup truck; confined within a house, building, fence, crate, pen or other enclosure; or controlled by the voice command of a responsible person who is with the dog at all times.

Harbor means to own, keep, or provide care, shelter, protection, refuge or nourishment to a dog or

cat.

Hearing officer means a person appointed by the county in accordance with section 14-57.

Hobby breeder means a person other than a pet dealer who shelters, breeds or trains a single breed of dog or cat, to conform to an approved standard of competition. The owner of a hobby breeder facility must be in good standing and have registration privileges intact with the appropriate national animal registry. The owner must have three years' documented experience in show clubs and participation in show trials.

Hobby breeder facility means kennels or catteries operated by a hobby breeder that conform to the standards set out in this article under section 14-56.

Impounding or holding facility means any one or combination of a pet shop, kennel, cattery or humane society facility or any facility or place the county or city may so designate.

Licensed veterinarians means all veterinarians actively engaged in the practice of that profession in the state, who are duly registered and licensed as such by the state, and who are authorized to vaccinate dogs and cats against rabies and to execute certificates of vaccination.

Microchip or electronic implantation means an electronic animal identification device (EAID).

Neuter means the medical procedure of rendering a male dog or cat permanently incapable of breeding.

Owner means any person, firm, corporation, humane society, public or private nonprofit organization who harbors a dog or cat. If the person purporting to own a dog or cat is a minor, as defined by Florida Statutes, the minor's parent(s) or legal guardian, shall be deemed the owner of the dog or cat for purposes of this chapter.

Person means an individual, firm, partnership, corporation, trust or any association of persons.

Pet dealer means any person who in the ordinary course of business engages in the sale of more than two litters, or 20 dogs or 20 cats, per year, whichever is greater, to the public. Such definition includes breeders of animals who sell such animals directly to a consumer.

Primary enclosure means a structure used to immediately restrict one or more cats to a limited amount of space, such as a room, pen, run, cage or compartment.

Proper enclosure of a dangerous dog, while on the owner's property, means a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements. A dangerous dog warning sign shall be

posted on such pen or enclosure.

Public nuisance animal means any animal to which any of the following conditions apply:

- (1) Animals that are found within a residentially zoned area and not under restraint as defined in this article; or, in areas zoned other than residential, are off the premises of the owner and not under command of the owner;
- (2) An animal that damages the property of anyone other than its owner;
- (3) Animals that are dangerous animals;
- (4) Animals that cause unsanitary conditions of enclosures or surroundings as determined by the county health officer;
- (5) Animals that are diseased animals dangerous to human health;
- (6) Animals that bark excessively or make prolonged and disturbing noises interfering with the peace and quietude of the neighboring property; or
- (7) Animals that have been determined to be strays.

Service animal means a dog or cat meeting the definition of service animal in 28 C.F.R. § 36.104 and F.S. § 413.08(1)(d).

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

Spay means the medical procedure of rendering a female dog or cat permanently incapable of breeding.

Stray (used as a noun) means any unlicensed and unattended animal off the premises of its owner.

Unaltered shall mean an animal that has not been spayed or neutered.

Unprovoked means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

Without provocation has the same meaning as unprovoked.

(Ord. No. 91-33, § II, 10-10-91; Ord. No. 93-25, § II, 11-4-93; Ord. No. 94-15, § I, 9-18-94; Ord. No. 2003-15, § 1, 10-2-03; Ord. No. 2007-11, § I, 10-18-07; Ord. No. 2008-13, § I, 6-5-08; Ord. No. 2008-18, § I, 8-21-08; Ord. No. 2009-35, § I, 11-19-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-32. - Penalty.

A violation of this article is a civil infraction which carries a maximum civil penalty not to exceed

\$500.00. If a person who has committed such a civil infraction does not contest a citation issued to him or her, the civil penalty shall be less than the maximum civil penalty.

Any expenses imposed on the owner of an animal by operation of this article which remain unpaid as of the time of judicial handling shall be ordered paid as a part of the court's disposition. The county also may seek payment of outstanding expenses as restitution in any companion or related criminal prosecution. In the event of a violation of F.S. ch. 767 or F.S. § 828.29, the owner shall be subject to applicable criminal penalties in addition to any civil penalties. Further, nothing herein shall relieve the owner of civil liability for injuries or damage which result from actions or inactions that are violations of the provisions herein.

(Ord. No. 91-33, § XXIV, 10-10-91; Ord. No. 93-25, § XXV, 11-4-93; Ord. No. 94-15, § XIII, 9-18-94)

Sec. 14-33. - Conflicting provisions.

This article shall supersede any and all other ordinances dealing with animal control within the unincorporated areas of the county, except those ordinances prohibiting or regulating animals on the ocean beaches shall remain in full force and effect.

(Ord. No. 93-25, § XXVIII, 11-4-93)

Sec. 14-34. - Jurisdiction; persons authorized to enforce article.

This article shall apply to and be enforced in the unincorporated areas of the county. Until the date Ordinance No. 2002-16 becomes effective, this article may be enforced by either animal control officers or law enforcement officers of the county and any municipality which contracts with the county to enforce this article and the animal control laws of the state. Upon Ordinance No. 2002-16 becoming effective, section 14-43 of this article shall apply to and be enforced in any municipality which has permitted Ordinance No. 2002-16 to be applicable in its jurisdiction.

(Ord. No. 91-33, § XXV, 10-10-91; Ord. No. 93-25, § XXVI, 11-4-93; Ord. No. 2002-16, § I, 9-5-02; Ord. No. 2003-15, § 2, 10-2-03)

Sec. 14-35. - Animal control officers.

(a)

Animal control authority. The authority and primary responsibility of the county for enforcement of this article and the animal control laws of the state is hereby delegated to the county manager, the animal control division, and each animal control officer who is certified according to the laws of the state. Each animal control officer so certified shall have complete police and law enforcement power to enforce this article and the provisions of state law, rules and regulations relating to animal control in the unincorporated area of the county.

(b) *Animal control officer training course.*

- (1) County-employed animal control officers shall successfully complete a 40-hour minimum standards training course. Such course shall include but is not limited to training for animal cruelty investigations, search and seizure, animal handling, courtroom demeanor and civil citations. The course curriculum must be approved by the Florida Animal Control Association. An animal control officer who successfully completes such a course shall be issued a certificate indicating that he or she has received a passing grade.
- (2) Any animal control officer who was authorized by a county to issue citations prior to January 1, 1990, is not required to complete the minimum standards training course.
- (3) A surcharge of \$5.00 shall be collected upon each civil penalty imposed for violation of this article. The proceeds from such surcharges shall be used to pay the costs of training for animal control officers.

(Ord. No. 91-33, § III, 10-10-91; Ord. No. 93-25, § III, 11-4-93; Ord. No. 94-15, § II, 9-18-94; Ord. No. 2003-15, § 3, 10-2-03)

Sec. 14-36. - Animal control board.

- (a) *Established.* There is hereby established a county animal control board.
- (b) *Orientation.* The county council or county staff will conduct a board orientation in the first quarter of the year in which appointments are to be made. The orientation will acquaint board members with parliamentary procedure, sunshine law, public records law, and county staff that will be assigned to the Volusia County Animal Control Board.
- (c) *Membership; term of office.* The composition, appointment and term of members of the board shall be as follows:
 - (1) The animal control board shall consist of nine members and include, whenever possible, a licensed veterinarian, a humane society representative, a cat owner, a member of a kennel club, a hunter, a county citizen from an unincorporated residential area, an owner of livestock, a county citizen from an unincorporated agricultural area and a county citizen from any unincorporated area with an expressed interest in animal issues. All members shall be electors of Volusia County.

- (2) All members of the animal control board shall be appointed by and serve at the pleasure of the county council. Any member of the board may be removed from office without cause by the county council. The chairman of the board shall be elected annually from among the appointed members of the board.
 - (3) Terms of the animal control board shall be for two years. However, the term of each member previously appointed to a two-year pursuant to this section shall continue automatically, but said term shall expire March 31, 2001. Any member whose term expires before March 31, 2001, is hereby reappointed to serve until March 31, 2001. The county council shall appoint each board member, upon the nomination of a council member. Each district council member and the at-large member shall make one nomination of an elector from within the county. The county chair shall make two nominations of an elector from within the county.
 - (4) No elected official, member of two or more other county boards or commissions, or employee of county government shall be appointed to serve on the board. If any member fails to attend two meetings in any calendar year, regardless of the reason, the member's seat shall be deemed vacant.
 - (5) A board vacancy shall be filled upon nomination by the county council member who made the nomination to the vacated position or the successor to that council member.
- (d) *Functions.* The functions of the animal control board shall be as follows:
- (1) Meet at least quarterly, but no more than six times annually, unless otherwise needed.
 - (2) Recommend to the county council rules and regulations pertaining to any of the following:
 - a. Operation of the animal control facilities.
 - b. Standards and procedures for the control, collection, care, custody or disposal of animals not under restraint, and animals creating or causing a public nuisance.
 - c. Standards for the maintenance of regulated facilities.
 - (3) Maintain a quorum of five members in attendance in order to conduct any meeting of the animal control board.

(Ord. No. 91-33, § IX, 10-10-91; Ord. No. 92-72, § IV, 8-6-92; Ord. No. 93-25, § IX, 11-4-93; Ord. No. 94-15, § V, 9-18-94; Ord. No. 00-12, § I, 4-13-00; Ord. No. 2007-11, § II, 10-18-07; Ord. No. 2009-15, § I, 4-16-09)

Charter reference— Authority to create board, § 701.

Cross reference— Boards, commissions, councils and authorities, § 2-421 et seq.

Sec. 14-37. - Interference with animal control officer or humane society personnel.

- (a) No person shall interfere with, hinder, resist or obstruct the animal control officer or humane society personnel in the lawful performance of their duties as set forth in this article.
- (b) No person shall, without proper authority, release, remove or attempt to release or remove any animal from the custody of the animal control officer or humane society personnel.
- (c) No person shall tear down, burn, deface, destroy or otherwise injure an impounding facility or enclosure.
- (d) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § X, 10-10-91; Ord. No. 93-25, § X, 11-4-93)

Sec. 14-38. - Impoundment.

(a) *Animals subject to impoundment.*

- (1) Any unrestrained or unlicensed animal required to be licensed may be impounded by the animal control officer.
- (2) Any animal creating a public nuisance as defined in this article may be impounded by the animal control officer, except that hunting dogs shall be exempt from the terms of subsections (1) and (6) of the definition of the term "public nuisance animal" in section 14-31 when engaged in a hunt or not under restraint as a result of a hunt during legally declared hunting seasons, as designated from year to year by the state game and freshwater fish commission.
- (3) Any dog for which a final determination has been made that there is sufficient cause to deem the dog as dangerous whose owner fails to comply with the requirements of F.S. § 767.12, or its successor and subsections 14-40(g) and (h) of this article or its successor within the time period provided therein. The dog shall remain impounded until the owner complies with all of the provisions of subsections 14-40(g) and (h) of this article. Should the owner continue to fail to comply with subsections 14-40(g) and (h) of this article and the referenced statute for a period of 14 days from the date of the impoundment, then the animal control division may seek injunctive relief to enjoin the return of the dangerous dog to its owner and such other relief as the court deems appropriate.

(b) *Redemption of impounded animals.*

- (1) Except for animals impounded pursuant to subsection (a)(3) of this section, where an impounded animal bears an indicium of ownership, the animal control officer shall notify the owner or keeper of said animal's impoundment by direct conversation, telephone message, written notice which is posted at the owner's address, or sent to the owner by certified mail, return receipt requested. Said animal shall only be required to be held for

the owner for three working days from the date of notification to the owner. At the expiration of said three days, if no owner has appeared to claim the impounded animal, said animal shall be deemed unowned and may be disposed of as provided in subsection (c) of this section. An owner of an animal impounded shall pay the impoundment fee before the animal will be released to the owner.

- (2) Animals impounded pursuant to subsection (a)(3) of this section may only be redeemed upon full compliance with this article as demonstrated satisfactorily to the appropriate animal control officer or pursuant to a court's order and upon payment of all impoundment fees.
- (3) Working day shall mean a day in which the impounding facility is open for normal operating activities.
- (4) Any dog or cat impounded in accordance with this section shall be spayed or neutered, or the owner shall obtain an unaltered animal permit for that dog or cat within 30 days of being redeemed, unless the owner has previously obtained an unaltered animal permit for that dog or cat in accordance with section 14-58. Documentation evidencing completion of the spay or neuter procedure shall be provided to the animal control division within this 30-day period. Any application for an unaltered animal permit filed to satisfy the terms of this section shall be filed with the animal control division within 72 hours of the dog or cat being redeemed.

- (c) *Disposition of impounded animals.* Any unclaimed animal shall become the property of the county, and may be humanely destroyed, transferred to a humane society or placed in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with all of the provisions of this article.
- (d) *Fees.* Impounding agencies shall charge impoundment fees plus fees for the animal's care, feeding and maintenance. These fees shall be established by recommendation by the animal control board in cooperation with the holding facilities and approved by resolution of the county council.
- (e) *Impounding facilities.* The county may construct and operate impounding or holding facilities or contract with organizations with such facilities to provide adequate animal impounding for the area.

(Ord. No. 91-33, § VII, 10-10-91; Ord. No. 93-25, § VII, 11-4-93; Ord. No. 2003-15, § 4, 10-2-03; Ord. No. 2007-11, § III, 10-18-07; Ord. No. 2008-13, § II, 6-5-08)

Sec. 14-39. - Methods of enforcement; investigations.

- (a) *Procedures.*

- (1) An animal control officer who has probable cause to believe that a person has committed an act in violation of this article shall do one or more of the following:
 - a. Issue a notice of violation to the person who is in violation of this article. Such notice of violation shall state the date and time of the issuance of the notice, the name and address of the person in violation, the date of the offense, the offense committed, a description of the animal involved, and a demand that the offense be abated within 24 hours after the issuance of the notice. If the person shall fail to abate the offense, then the animal control officer may issue a citation to the person; and/or
 - b. Impound the animal involved. Such animal may be redeemed as provided in subsection 14-38(b), unless said animal is impounded pursuant to subsection 14-38(a)(3); and/or
 - c. Issue a citation to the person who is in violation of this article. Such a citation may be contested in the county court. If a person fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the county manager or his designee. This order shall require such a person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court.
- (2) Certain aggravated violations of this article which result in the unprovoked biting, attacking or wounding of a human being or domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of section 14-59; or violations resulting in the issuance of a third or subsequent citation to a person will require a mandatory court appearance.

(b) *Investigations.* The animal control officer may request the owners of an animal to exhibit the animal, and, if applicable, the license of such animal.

- (1) It shall be the duty of the animal control officer to keep the following records:
 - a. Accurate and detailed records of the licensing, impoundment and disposition of all animals coming into his custody;
 - b. Accurate and detailed records of all reported bite cases and investigations;
 - c. Accurate and detailed records on all money collected and expended in the operation of the functions of his office; and
 - d. Accurate records of all rabies certificates.

(2) All records required by this section shall be subject to inspection by the county.

(Ord. No. 91-33, § VIII, 10-10-91; Ord. No. 92-72, § III, 8-6-92; Ord. No. 93-25, § VIII, 11-4-93; Ord. No. 94-15, § IV, 9-18-94; Ord. No. 2003-15, § 5, 10-2-03; Ord. No. 2009-35, § II, 11-19-09; Ord. No. 2017-02, § I,

2-2-17)

Sec. 14-40. - Classification of dogs as dangerous; destruction.

- (a) *Authority.* The provisions of F.S. §§ 767.10—767.16, or their successor are hereby adopted and incorporated herein by reference. No provision of this ordinance shall be construed to lessen any valid provisions of F.S. §§767.10—767.16 as such sections currently exist or may be amended from time to time.
- (b) *Enforcement.* The animal control division shall enforce the provisions of F.S. §§ 767.12, 767.13, 767.135, and 767.136, governing the classification of dangerous dogs and destruction of dogs, respectively. The animal control division shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.
- (1) An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by the animal control division, placed in quarantine, if necessary, for the proper length of time, or impounded and held. The dog may be held pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If the dog is to be destroyed, the dog may not be destroyed while an appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal pending any hearing or appeal.
- (2) An animal that is the subject of a dangerous dog investigation, that is not impounded with the animal control division, shall be humanely and safely confined by the owner in a securely fenced or enclosed area. The use of an electronic or invisible dog fence shall not constitute a "securely fenced or enclosed area" for the purposes of this section. The animal shall be confined in such manner pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any other penalties imposed under this section. The address at which the animal resides shall be provided to the animal control division. A dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If a dog is to be destroyed, the dog may not be relocated or its ownership transferred.
- (c) *Defenses.* A dog may not be declared dangerous if:
- (1) The threat, injury, or damage was sustained by a person who, at the time, was unlawfully

on the property or, who while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member.

- (2) The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (d) *Notice.* Any written notification to an owner of a dog subject to a proceeding under F.S. §§ 767.12, 767.13, 767.135, or 767.136 and this article, shall be by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process.
- (e) *Initial determination of sufficient cause.* After the investigation, the animal control division shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and, if sufficient cause is found, as to the appropriate penalty under subsection (g). The animal control division shall afford the owner an opportunity for a hearing prior to the animal control authority's making a final determination regarding the classification or penalty. The animal control division shall provide written notification of the sufficient cause finding and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformance with the provisions of Chapter 48, Florida Statutes, relating to service of process. To request a hearing regarding the dangerous dog classification, penalty, or both, the owner shall file a written request for the hearing with the animal control division within seven calendar days after receipt of the notification of the sufficient cause finding and proposed penalty. If the owner requests a hearing, the hearing shall be held as soon as possible, but not later than 21 calendar days and not sooner than five days after receipt of the request from the owner. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the animal control division as to such matter shall become final.
- (f) *Final determination of sufficient cause.* Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (e), the animal control division shall provide a written final order to the owner by registered mail, certified hand delivery, or service. The owner may appeal the determination, penalty, or both to the circuit court in accordance with the Florida Rules of Appellate Procedure and F.S. § 767.12(4) after receipt of the final order. Failure to file the appeal timely waives the owner's right to do so. If the dog is not held by the animal control division, the owner must confine the dog in a securely fenced or enclosed area pending resolution of the appeal. The use of an electronic or invisible dog fence shall not constitute a "securely fenced or enclosed area" for the purposes of this section. The owner shall be responsible for payment of all fees, boarding costs and other related expenses incurred by the county during the period a dog is quarantined or impounded under F.S. § 767.12.

(g) *Registration and restrictions.*

- (1) Except as otherwise provided in paragraph (2) below, the owner of a dog classified as a dangerous dog shall:
- a. Within 14 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, obtain a certificate of registration for the dog from the animal control division. The owner shall be required to renew the certificate annually. To obtain a certificate of registration or a renewal thereof the owner shall be at least 18 years of age and shall present to the animal control division sufficient evidence of:
 - i. A current certificate of rabies vaccination for the dog.
 - ii. A proper enclosure to confine a dangerous dog as defined in section 14-31.
 - iii. The posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
 - iv. Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.
 - v. A certificate from a veterinarian that the dog has been spayed or neutered.
 - b. Immediately notify the animal control division when the dog :
 - i. Is loose or unconfined.
 - ii. Has bitten a human being or attacked another animal.
 - iii. Is sold, given away, or dies.
 - iv. Is moved to another address.

Before a dangerous dog is sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control division. The new owner must comply with all of the requirements of this article and F.S. §§ 767.10—767.16. If the dangerous dog is moved from this jurisdiction to another within the state the owner shall advise the new owner that the animal control authority in the new jurisdiction shall be notified. The owner of a dog classified as dangerous who comes into Volusia County and brings the dangerous dog into Volusia County shall immediately notify the animal control division that the dog is in Volusia County.

- c. Not permit the dog to be outside a proper enclosure unless the dog is muzzled and retrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting a person or animal. The

owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. The use of an electronic or invisible dog fence shall not constitute a "securely fenced or enclosed area" for the purposes of this section. When being transported, such dogs must be safely and securely restrained within a vehicle.

- (2) If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner.
- (h) *Attack or bite by dangerous dog; confiscation; destruction.* If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the dangerous dog shall be immediately confiscated by the animal control division, placed in quarantine, if necessary, for the proper length of time, or impounded and held for ten business days after the owner is given written notification of confiscation under F.S. § 767.12, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under subsection (e) above. 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 appeal procedure.
- (i) *Attack or bite by unclassified dog that causes death; confiscation; destruction.* If a dog that has not been declared dangerous attacks and causes the death of a human, the dog shall be immediately confiscated by the animal control division, placed in quarantine, if necessary, for the proper length of time or held for ten business days after the owner is given written notification under F.S. §§ 767.12, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under subsection (e) above. If the owner files a written appeal under subsection (f) above or this section, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.
- (j) *Exceptions; hunting dogs; sports/show dogs; law enforcement; service dog.*
- (1) Hunting dogs are exempt from the provisions of this article when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from the provisions of this article when engaged in any legal procedures. However, such dogs at all other times in all other respects shall be subject to this and

other ordinances. Dogs that have been classified as dangerous may not be used for hunting purposes.

- (2) Any dog that is owned, or the service of which is employed, by a law enforcement agency is exempt from this article.
- (3) Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human is exempt from any quarantine requirement following such bite if the dog has a current rabies vaccination that was administered by a licensed veterinarian.

(Ord. No. 91-33, § XIV, 10-10-91; Ord. No. 92-72, § V, 8-6-92; Ord. No. 93-25, § XIV, 11-4-93; Ord. No. 94-15, § IX, 9-18-94; Ord. No. 98-7, § I, 3-19-98; Ord. No. 2003-15, § 6, 10-2-03; Ord. No. 2007-11, § IV, 10-18-07; Ord. No. 2017-02, § I, 2-2-17)

Sec. 14-41. - Duty of animal owners to be responsible owners.

- (a) It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injuries or damage which might result from his or her animal's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness or ferocity.
- (b) In the event that the owner or keeper of any animal is a minor, the parent or guardian of such minor shall be responsible to ensure that all provisions of this article are complied with.
- (c) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XI, 10-10-91; Ord. No. 93-25, § XI, 11-4-93; Ord. No. 94-15, § VI, 9-18-94)

Sec. 14-42. - Vaccination of ferrets, dogs and cats.

- (a) *Required.* Every owner of any adult ferret, dog or cat within the county shall have such ferret, cat or dog vaccinated against rabies in compliance with F.S. § 828.30, as amended, by a licensed veterinarian of his choice. Evidence of such vaccination shall consist of a current certificate issued and signed by the veterinarian administering the vaccine, or other reasonable proof. However, except as it may be otherwise required by F.S. § 828.30, as amended, no ferret, dog or cat need be vaccinated where:
 - (1) A licensed veterinarian has examined the animal and certified that, at such time, vaccination would endanger its health because of its age, infirmity, debility, illness or other medical consideration; and
 - (2) Such exception certificate is presented to the animal control officer within five days of such

examination. However, the animal shall be vaccinated against rabies as soon as its health and age permit. Unvaccinated animals must be confined to the owner's property or a veterinary facility.

The cost of the rabies vaccination shall be borne by the owner of the animal.

- (b) *Certificate of vaccination.* Upon vaccination, the veterinarian administering the vaccine shall execute, deliver to the animal control officer and furnish to the owner of the animal, as evidence thereof, a rabies vaccination certificate in the form required by F.S. § 828.30, as amended.
- (c) *Penalty.* Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § IV, 10-10-91; Ord. No. 93-25, § IV, 11-4-93; Ord. No. 2006-09, § I, 4-27-06)

Sec. 14-43. - Licensing of dogs and cats.

- (a) *Required; payment of license fee.* Except as specifically exempted in this section, every ferret, dog and cat, four months of age or older, kept by an owner in any municipality over which Volusia County has animal control jurisdiction or in the unincorporated area of Volusia County shall be licensed annually. All owners shall be issued a county license certificate and tag for their animal by the animal control services division upon presentation of reasonable proof of current rabies inoculation or an exception certificate from a licensed veterinarian, or by a licensed veterinarian at the time of inoculating or issuing an exception certificate for an animal. The owner shall pay to the animal control services division, or a person or entity designated by the county to receive such funds, a license fee in an amount recommended by the animal control board and established by resolution of the county council, which the division or county designee shall collect immediately and issue a receipt. License fees shall not be required for seeing eye dogs or governmental police dogs.
- (b) *Duration; renewal.* Any license issued pursuant to this section shall expire, and become null and void, one year after issuance. The license shall be renewed annually by the person owning the ferret, dog or cat, or exempted therefrom by other sections of this article.
- (c) *Issuance of tag.* The county license tag issued by the animal control division or veterinarian shall be serially numbered, bear the year of issuance, and be attached to the collar or harness of the animal.
- (d) *Use of fees collected.* The license fees collected from the owners of sterilized and unsterilized animals be used on a first-come, first-serve basis, by the animal control division or county designee for purposes of the county's mobile spay/neuter clinic program.
- (e) *Animals exempt from wearing license tag.* Racing greyhounds; hunting dogs, while engaged in

a hunt; show dogs; or dogs engaged in obedience or K-9 training, while under the command or presence of the owner, trainer or other responsible custodian directly related to the racing, hunting, show or training activities, respectively, are exempt from wearing the license tag, if tattooed. A dog having an identifying tattoo registered with the animal control officer is also exempt from the requirement of wearing a license tag.

- (f) *Duplicate tag.* In the event of loss or destruction of the original tag, the owner of the domesticated animal may obtain a duplicate tag from the animal control officer at the established fee for same.
- (g) *Animals exempt from licensing.* The licensing provisions of this article shall not apply to greyhounds kept, maintained or brought into the county for the purpose of racing at licensed greyhound tracks; to animals used as part of entertainment acts when properly controlled; to animals remaining in the county for a period of less than 30 days; or to purebreds kept, maintained or brought into the county for the purposes of training or competition; provided, however, that nothing in this section shall prohibit the demand for proof of vaccination done in another state or county; and failure to provide said proof upon demand shall require said animal to be vaccinated under the provisions of this article.
- (h) *Conflict.* An ordinance of any municipality covering the same subject matter as this section shall be considered in conflict herewith.
- (i) *Penalty.* Any person who violates a provision of this section is subject to the penalties prescribed in section 14-32.
- (j) *Enforcement procedures.* Subject to approval of the county council, the animal control division or county designee shall establish procedures for the enforcement of this section.
- (k) *Intent.* The county shall not use the rabies vaccination certificate information submitted to the animal control division by licensed veterinarians for any purpose other than enforcement of the licensing and rabies programs.

(Ord. No. 91-33, § V, 10-10-91; Ord. No. 93-25, § V, 11-4-93; Ord. No. 2002-16, § II, 9-5-02; Ord. No. 2006-09, § I, 4-27-06; Ord. No. 2009-35, § III, 11-19-09)

Sec. 14-44. - Rabies control.

- (a) *Report of animals infected with or showing symptoms of rabies.* It shall be the duty of the owner or of any person knowing of an animal infected with or showing suspicious symptoms of rabies or any unusual behavior to report the same within 12 hours to the county health officer or the animal control officer.
- (b) *Duties of county health officer.*
 - (1) The county health officer or animal control officer shall enforce the applicable state

statutes and the applicable rules of the state department of health and rehabilitative services.

- (2) Whenever the county health officer or animal control officer is informed that an animal has bitten or scratched a person or is suspected of having or showing suspicious symptoms of rabies or other infectious or contagious disease, the county health officer or animal control officer may capture such animal, alive, if possible, and quarantine it under observation for a period of at least ten days from the date of bite or scratch.
- (3) The quarantine shall be in the holding facility designated by the county or, at the owner's request and with approval of the county health officer or animal control officer, in a licensed veterinary hospital. Quarantined animals shall be released only upon approval of the county health officer or animal control officer. The owner shall bear the cost of the care, feeding and maintenance of a quarantined animal.
- (4) If a quarantined animal dies, the county health officer, the animal control officer, the bite victim and the owner of the animal shall be notified by the operators of the quarantine facility; and the head of the animal shall be forwarded to one of the state board of health laboratories for pathological examination.
- (5) In the event rabies exists in any given area to the extent that circumstances indicate necessity of quarantine and if such quarantine is ordered by the county health officer or animal control officer, the following requirements shall be enforced by the county health officer or animal control officer in the area of quarantine:
 - a. All animals, vaccinated as well as unvaccinated, must be confined to their owners' premises and will be permitted to be away from the premises only when under proper restraint as required in section 14-32. Confinement to owners' premises may be by fence, cage or chain attached to a stake or animal run.
 - b. All animals found not under proper restraint are to be impounded. Animals may be released to their owners or agents upon payment of impounding fees. No animals will be released from the holding facility except to owners or agents. Unvaccinated animals which have been impounded will not be released to the owners or agents until said animals have been vaccinated or until arrangements have been made with the animal control officer to vaccinate the animals. Animals will not be adopted during a quarantine period.
- (6) The owner of any ferret, dog or cat vaccinated with an approved antirabies vaccine as set forth in F.S. § 828.30, as amended, except such ferret, dog or cat exempted from the vaccination in subsection 14-42(a)(1) after receiving approval of the county health officer or animal control officer, may have such ferret, dog or cat quarantined and confined in a place other than the places specified in subsection (b)(3) of this section. However, if at any

time during the quarantine it is determined by the county health officer or animal control officer that the quarantine is not properly maintained in order to ensure isolation of the animal, this exemption shall be void, and the animal shall be impounded at the owner's expense.

(7) Quarantined animals may, with the county health officer's or animal control officer's permission, be quarantined at or on the owner's property.

(8) Any animal subject to quarantine shall not be vaccinated before the quarantine period has expired.

(c) *Penalty.* Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § VI, 10-10-91; Ord. No. 93-25, § VI, 11-4-93; Ord. No. 94-15, § III, 9-18-94; Ord. No. 2006-09, § I, 4-27-06)

Sec. 14-45. - Restraint of animals while on property of owner.

(a) *Required.* It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to ensure that:

(1) The animal is kept under restraint;

(2) Reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian; and

(3) The animal is:

a. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure; or

b. Humanely secured by chain, cable and trolley, rope or tether of sufficient strength to prevent escape. If the animal is secured for more than three consecutive hours a day, the restraint device must be at least three times the length of the animal and free from stationary objects and other entanglements at all times; or

c. Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not secured as provided for in subsections (a)(3)a. or b., of this section. The voice command must be demonstrated as an effective restraint if requested.

(b) *Dangerous animals.* In addition to the requirements in subsection (a) of this section, an owner who maintains any dangerous dog as defined in F.S. § 767.11(1), or its successor, out-of-doors must fence a portion of his or her property with a perimeter or area fence. Within this perimeter fence, the dangerous dog must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter

fence. The kennel or pen must have secure sides and a secure top attached to all sides and the sides must be either buried two feet into the ground, sunk into a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked.

(c) *Penalty.* Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XII, 10-10-91; Ord. No. 93-25, § XII, 11-4-93; Ord. No. 94-15, § VII, 9-18-94; Ord. No. 2009-35, § IV, 11-19-09)

Sec. 14-46. - Restraint of animals while off property of owner.

(a) *Required.* It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under restraint and control at all times while the animal is off the real property limits of the owner, possessor or custodian. For the purpose of this section, an animal is deemed under control when it is:

- (1) Securely confined within a vehicle, parked or in motion; or
- (2) Caged or tethered in the open bed of a pickup truck; or
- (3) Securely and humanely confined within a house, building, fence, crate, pen or other enclosure with the property owner's consent; or
- (4) Humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape with the permission of the owner of the property where the restraint is being used; or
- (5) Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not secured as provided for in subsections (a)(1), (2), (3) or (4), of this section. The voice command must be demonstrated as an effective restraint if requested.

(b) *Public parks (excluding the Atlantic Ocean beach).* It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal leashed, under secure restraint within a vehicle parked or in motion, or caged or tethered in the open bed of a pickup truck, at all times when visiting any public park, except in an area of a public park designated as a "dog park".

(c) *Penalty.* Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XIII, 10-10-91; Ord. No. 93-25, § XII, 11-4-93; Ord. No. 94-15, § VIII, 9-18-94; Ord. No. 2003-05, § 1, 4-10-03)

Sec. 14-47. - Warning signs on premises where guard dogs or dangerous dogs are kept.

- (a) All owners, keepers or harborers of any guard dog or dangerous dog shall display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign easily readable by the public using the words "BAD DOG".
- (b) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XV, 10-10-91; Ord. No. 93-25, § XV, 11-4-93)

Sec. 14-48. - Nuisance animals.

Any owner whose animal is determined to be a public nuisance is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XVI, 10-10-91; Ord. No. 93-25, § XVI, 11-4-93)

Sec. 14-49. - Dogs and cats transported into county for sale or gift; sale of animals at outdoor markets.

- (a) Each dog or cat transported into the county for sale and each dog or cat offered in the county for sale or gift shall be subject to the provisions of F.S. § 828.29, or its successor, which is hereby adopted and incorporated herein by reference.
- (b) County-operated or city-operated animal control agencies and registered, nonprofit humane organizations shall be exempt from the provisions of this section.
- (c) The sale, transfer or display of all live animals at flea markets or related outdoor markets shall be subject to the following restrictions and/or limitations:
 - (1) A permit will be obtained by the vendor from the animal control board through the animal control authority, upon presentation of a valid county occupational license, prior to any sale, transfer or display.
 - (2) All animals must be displayed in crates which meet current minimum United States Department of Agriculture requirements regarding crating of live animals. There shall be no more than two animals per crate.
 - (3) Crates will allow for a free flow of air. The crates shall be displayed in such a manner that access to the animals is controlled by the vendor.
 - (4) A source of heat and mechanical ventilation shall be available at the site for use as necessary.
 - (5) All animals must be kept in a clean and sanitary environment.
 - (6) All animals must be located under a permanent roofed structure and be in a shaded area.
 - (7) All animals shall be provided with adequate water and food which is available to them at

all times.

(8) The owner or manager of the flea market or related outdoor market shall inspect the site of all animal vendors on a daily basis and shall report any violations that he or she is aware of to the appropriate agencies.

(9) A valid health certificate shall accompany the sale or transfer of all animals.

(d) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XVII, 10-10-91; Ord. No. 93-25, § XVII, 11-4-93; Ord. No. 94-15, § X, 9-18-94)

Sec. 14-50. - Female dogs and female cats in heat.

(a) The owner of female dogs or cats shall confine said animals when they are in heat in such a manner as to make said animals inaccessible to any male dog or cat, except for intentional breeding purposes.

(b) Any person who violates this provision, either willfully or through failure to exercise due care and control, is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XVIII, 10-10-91; Ord. No. 93-25, § XVIII, 11-4-93)

Sec. 14-51. - Disposition of dead animals.

- (a) When any animal dies on public or private property, it shall be the responsibility of the owner of said animal or the owner of said private property to remove and dispose of said animal immediately pursuant to state codes. Should the owner not be aware of said animal's presence, the following procedures shall be followed:
- (1) When any dead animal shall be found upon public property, the owner of said animal shall remove and dispose of said animal upon notification by the animal control officer or any other law enforcement officer, so as not to constitute a nuisance. If the owner of said animal shall fail to do so within a reasonable time, the county shall remove and dispose of said animal and charge the cost of said removal and disposal to the owner of said animal, if known.
- (2) When any dead animal shall be found upon private property, the owner of said animal or the owner of said property shall immediately remove and dispose of said animal, upon notification by the animal control officer or any other law enforcement officer.
- (b) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XIX, 10-10-91; Ord. No. 93-25, § XIX, 11-4-93)

Sec. 14-52. - Removal of animal waste.

- (a) The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas or private property other than his or her own.
- (b) Any person found in violation of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XX, 10-10-91; Ord. No. 93-25, § XX, 11-4-93; Ord. No. 94-15, § XI, 9-18-94)

Sec. 14-53. - Duties of driver when vehicle strikes animal.

- (a) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop as soon as safely possible and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.
- (b) Any person who violates any provision of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XXI, 10-10-91; Ord. No. 93-25, § XXI, 11-4-93)

Sec. 14-54. - Disposal of live animals to be used for experimentation or vivisection prohibited.

- (a) Live animals may not be disposed of to any school, college, university, person, firm, association, laboratory or corporation for experimentation or vivisection purposes, or to any person providing, selling or supplying dogs and cats and other animals to any school, college, university, person, firm, association or corporation for experimentation or vivisection purposes.
- (b) Any person who violates any provision of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XXII, 10-10-91; Ord. No. 93-25, § XXII, 11-4-93)

Sec. 14-55. - Selling or obtaining dogs or cats for purpose of human or animal consumption.

- (a) Dogs or cats may not be obtained, sold or purchased in the unincorporated areas of the county for the purpose of human or animal consumption.
- (b) Any person who violates any provisions of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 91-33, § XXIII, 10-10-91; Ord. No. 93-25, § XXIII, 11-4-93)

Sec. 14-56. - Hobby breeders.

- (a) *Generally.*
 - (1) *License required; fee.* No person shall establish or maintain a hobby breeder facility without first obtaining an annual license from the animal control division. The license fee for such facility will be set by resolution of the county council and not be based on the number of animals maintained at the facility. A license shall be issued only after an inspection that determines that the minimum requirements and standards, as set forth herein, have been met. The license shall be valid for a period of one year from the date of

issue, unless otherwise stated or revoked. Renewal applications shall be made within 30 days prior to the expiration date.

- (2) *Sale of animals.* The offspring of the dogs or cats bred at a hobby breeder facility to enhance or perpetuate a given breed, may be sold by the owner. Such sales shall not be considered commercial breeding for the purpose of this article provided that such sale is not the primary function of the facility.
 - (3) *Permitted animals; identification of animals.* There shall be only one species and one breed of either dog or cat bred or kept at any individual licensed hobby breeder facility. There shall be no more than two litters or 20 puppies or kittens, whichever is greater, produced per hobby breeder facility per year. Dogs or cats maintained at a licensed hobby breeder facility are exempt from the individual licensing provisions of this article except as otherwise provided in this article. For protection and identification, all dogs and cats will be identifiable by either a tattoo or implant device. An implant scanner must be on the premises if using an implant device. At no time will the total number of adult dogs or cats exceed the following limitations:
 - a. Miniature or toy breeds15 dogs
 - b. Standard or large breeds10 dogs
 - c. Cats25
 - (4) *Return of animals by new owners.* If a new owner becomes unable or unwilling to continue ownership and responsibility for a dog or cat, the license holder shall assist in placement of the dog or cat. If no suitable placement can be found within six months, the license holder shall accept return of the dog or cat if healthy and shall become fully responsible for its care.
 - (5) *Personal pet exemption.* A combined total of no more than four dogs or cats may be kept as personal pets in addition to the animals permitted under subsection (a)(3), above.
- (b) *Facilities.*
- (1) The facility, whether it be a private residence, portion of a private residence or a separate structure not physically connected to a private residence, shall be structurally sound and maintained in good repair to protect the animals from injury, to protect the animals against overexposure to the elements, to contain the animals and to restrict the entrance of other animals.
 - (2) Food shall be transported, handled and stored in a manner that ensures against the introduction of parasites, disease vectors (such as insects) or chemical contaminants. Supplies of dry food shall be stored in areas that are cool, dry, clean and free of vermin

and other potential contaminants. Refrigeration shall be provided for supplies of perishable food. Conditions affecting the shelf life of food such as date of manufacture, exposure to extremes in temperature and humidity, exposure to moisture, unsanitary conditions, exposure to light, exposure to oxygen, and exposure to insects shall be monitored to prevent deterioration of the nutrient value of food. Food receptacles shall be accessible to all animals and shall be located to prevent contamination by excreta. Feeding dishes shall be kept clean. Self-feeders may be used for the feeding of dry food and shall be sanitized regularly to prevent molding, deterioration or caking of food.

(3) Access to shelter shall be provided for the animals to allow them to remain dry at all times. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow the animals to protect themselves from direct rays of the sun.

(4) *Indoor facilities.*

- a. A source of heat and mechanical ventilation shall be available at the facility for use as necessary in preventing extremes in temperatures. Buildings must be maintained with suitable temperatures, ventilation and lighting. The ambient temperature shall be maintained in a range that ensures that the animals will not suffer from heat stress (heat stroke or hyperthermia), nor from cold stress (frostbite or hypothermia).
- b. The facility must provide adequate shelter from the elements and be kept clean and dry. Food must be fresh, wholesome, palatable, nutritionally adequate and offered to each animal at least once daily. Water must be fresh and available at all times. Animals shall be provided proper and necessary veterinary care. Facility owners must live on the premises.
- c. The interior building surfaces of any indoor housing facilities shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.
- d. A primary enclosure shall provide sufficient space to allow each enclosed cat to turn freely and to easily stand, sit and lie in a comfortable position. The minimum primary enclosure space for a single four pound or greater cat is to be 30 cubic feet. When a primary enclosure is used for more than one cat, resting perches shall be provided. Cages, kennels and runs must have enough space for dogs to lie down, stand, sit and stretch without touching the sides or top. Dogs shall be exercised a minimum of 30 minutes twice daily.
- e. Concrete floors and runs must have a resting board, and cages must have sanitary bedding. Easily accessible litter pans shall be provided for all cats at all times.
- f. The animal care facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury. Appropriate measures must be taken to

control and restrict the entrance of rodents.

- g. The facility shall have ample light of good quality by natural or artificial means or both. The lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection, cleaning and provide for the well-being of the animals. The animals shall be protected from excessive illumination.
- h. All cages shall be constructed of impervious porous materials. All cages shall have floors of either solid construction or metal grid construction. Cages having metal grid floors can be used provided the grid size is smaller than the pads of the feet of the dogs confined therein. No cages shall be enclosed entirely by solid walls. Stack cages must have solid floors. All primary enclosures shall be constructed and maintained so that cats therein have convenient access to clean food, water and litter. The number of cats in a primary enclosure shall not exceed the number which would prevent proper ventilation and sanitation. A primary enclosure shall not be constructed or maintained with an exposed wire mesh bottom, or any other material that will injure the feet or legs of a cat. If the primary enclosure is not of sufficient size to allow the cat(s) to express their specialized locomotor patterns, then an area shall be made available for the cat(s) to exercise and scratch at least once a day.
- i. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors.
- j. In all primary enclosures with a solid floor, a receptacle containing sufficient clean litter shall be provided to contain excreta. Each primary enclosure shall be provided with a solid resting board and shall be of adequate size to comfortably hold all occupants of the enclosure at the same time. Such resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(5) *Outdoor facilities.*

- a. *Shelter.* Sufficient shade shall be provided to afford all animals protection from direct sunlight. Sufficient cover shall be provided to protect all animals from rain. Shelter shall be provided for all animals when the ambient temperature falls below 50 degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which the dogs are acclimated. The facility shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facility shall be provided with a source of fresh air by means of windows, doors, or vents and shall be ventilated in a manner that minimizes drafts, odors and moisture conditions.
- b. *Cleaning of enclosures.* Excreta shall be removed from enclosures as often as necessary to prevent contamination of the animals contained therein and to reduce

disease hazards and odors. When a hosing or flushing method is used for cleaning an enclosure commonly known as a cage, any animal contained therein shall be removed from such enclosure during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other waste. A suitable method shall be provided to rapidly eliminate any excess water.

- c. *Sanitation of enclosures required.* Prior to the introduction of animals into empty enclosures previously occupied, such enclosures shall be sanitized. Enclosures for animals shall be sanitized often enough to prevent an accumulation of debris or excreta or a disease hazard; provided, however, such enclosure shall be sanitized at least once a week.
 - d. *Method of sanitation.* Cages, rooms and hard-surfaced pens or runs shall be sanitized by washing them with hot water and soap or detergent, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam. Pens or runs using gravel, sand or dirt shall be sanitized by removing the soiled gravel, sand or dirt and replacing it as necessary. Feces and soiled litter material shall be removed from all litter pans at least once a day. Absorbent litter and/or any other material used to absorb urine shall be changed when it becomes 30 percent saturated with urine.
 - e. *Maintenance of buildings and grounds.* Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the dogs or cats from injury and to facilitate the prescribed husbandry practices set forth in this subsection. Premises shall remain free of accumulations of trash.
 - f. *Pest control.* An effective program for the control of insects, ectoparasites and avian and mammalian pests shall be established and maintained.
 - g. *Distance of animal facilities from adjoining property.* All runs, exercise areas and primary enclosures shall meet the minimum setback provided for in the zoning code.
 - h. *Containment of animals.* Outdoor areas for dogs must be double-fenced in order to ensure all dogs are contained and do not escape. If cats are allowed outdoors they must be kept in an enclosure that has four sides and an attached solid or wire mesh top or roof to prevent the cats from escaping the enclosure.
- (c) *Inspections and enforcement.* It shall be a condition of the issuance of a license that an animal control officer shall be allowed, at any reasonable time, to inspect without notice all domestic animals and all premises where animals are kept. The animal control division shall give a license holder a 24-hour advance notice of the annual inspection. However, no notice is required for routine investigations of complaints. Any alleged violations of this section will be

investigated by the animal control division. Upon receipt of information of violation of this section, the animal control division may issue a notice of revocation to a license holder. The notice of revocation shall provide a summary of the information of the violation and shall be sent to the address listed in the license application. No license shall be renewed if an applicant has had its license revoked within two years of the date of the application or has outstanding and unsatisfied civil penalties imposed due to violations of this article.

- (d) *Hearing.* Any challenge to a notice of revocation must be in the form of a request for hearing and filed by the license holder with the animal control division within ten days after the license holder's receipt of said notice. The license holder shall set forth the reasons why the license holder believes the revocation would be an error. The challenge to a notice of revocation shall be accompanied by a filing fee of \$250.00 to cover administrative cost involved in the challenge. Failure to timely request a hearing shall render the revocation final.
- (e) *Hearing on revocation.* All hearings shall be open to the public, conducted by a hearing officer within 30 days after the receipt of a request for hearing by the license holder and in accordance with section 14-57.
- (f) *Filing of decision.* The original of the hearing officer's written decision shall be filed with the animal control division, and copies shall be mailed to the county attorney and the license holder.
- (g) *Notice.* Any written notification to license holder subject to a proceeding under this section shall be by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process.
- (h) *Penalty.* In addition to any revocation proceeding under this section, any person who violates any provision of this section is subject to the penalties prescribed in section 14-32.

(Ord. No. 93-25, § XXIV, 11-4-93; Ord. No. 94-15, § XII, 9-18-94; Ord. No. 2007-11, § V, 10-18-07; Ord. No. 2008-18, § II, 8-21-08)

Sec. 14-57. - Hearing officer.

- (a) *Appointment of hearing officer.* The county shall appoint and retain one or more hearing officers to:
 - (1) Conduct hearings and make determinations arising out of requests for hearing by recipients of notices of revocation of hobby breeder permits in accordance with section 14-56;
 - (2) Hold hearings and make determinations regarding dangerous dog classifications pursuant to F.S. § 767.12, or its successor and this article, and regarding dog confiscations for destruction pursuant to F.S. § 767.13, or its successor, and this article; and

- (3) Conduct hearings and make determinations arising out of requests for hearing by recipients of notices of revocation of unaltered animal permits in accordance with section 14-58.
- (b) *Qualifications.* Each hearing officer shall be a licensed attorney with the Florida Bar who has practiced law in the state for at least five years, and who has experience in local government law or administrative law. No hearing officer shall represent clients before the animal control board during the period in which they serve as hearing officers. No hearing officer or law firms with which he may be associated shall represent a client in any judicial or administrative proceeding in which the county is an adverse party in any proceeding under F.S. ch. 828; F.S. §§ 767.12 or 767.13, or ch. 14, Code of Ordinances, County of Volusia.
- (c) *Term, compensation.* Each hearing officer shall serve at the pleasure of the county council and shall be compensated at a rate or rates to be fixed by the county council.
- (d) *Ex parte communication.*
- (1) No county employee, elected official, or other person who is or may become a party to a proceeding before a hearing officer shall engage in an ex parte communication with the hearing officer. However, the foregoing does not prohibit discussions between the hearing officer and county staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the application.
- (2) If a person engages in an ex parte communication with the hearing officer, the hearing officer shall place on the record the pending case all ex parte written communications received, all written responses to such communications, a memorandum stating the substance of all oral communications received, and all oral responses made, and shall advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communications shall be entitled to do so, but only if such party requests the opportunity for rebuttal within ten days after notice of such communication. If the hearing officer deems it necessary due to the effect of an ex parte communication received by him, the hearing officer may withdraw from the case.
- (3) Any person who makes an ex parte communication prohibited by this section and any hearing officer who fails to place in the record any such communication, shall render the proceeding void.
- (e) *Prohibited from acting as agent or attorney for subject matter.* A hearing officer, any firm with which he or she is or may become associated, is prohibited for a period of three years after rendition of a decision from acting as an agent or attorney on any matter involving property which was the subject of the proceeding in which the hearing officer presided.
- (f) *Hearing procedures.*

- (1) Each party to a proceeding shall have the opportunity to:
 - a. Be represented by counsel;
 - b. Call and examine witnesses;
 - c. Introduce exhibits;
 - d. Examine opposing witnesses on any relevant matter, even though the matter was not covered under direct examination;
 - e. Impeach any witness regardless of which party first called the witness to testify.
- (2) All hearings shall be conducted, insofar as is practicable, in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner.
- (3) *Evidence.*
 - a. In any hearing before the hearing officer, irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
 - b. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.
 - c. A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.
 - d. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
 - e. The hearing officer shall ensure that a tape recording of the hearing is preserved, which record shall be public and open to inspection and transcription by any person. A party wishing to have a court reporter record the proceedings must retain and compensate the court reporter for his or her services.
- (4) *Written determinations of the hearing officer.*
 - a. After the hearing, the hearing officer shall issue a determination based upon the preponderance of the evidence. The animal control division shall bear the burden of establishing the elements sufficient to support a written notification under F.S. §§

767.12 or 767.13 or notice of revocation under section 14-56.

- b. All determinations of the hearing officer shall be in writing, signed and dated by the hearing officer, shall contain findings of fact and conclusions of law.

(Ord. No. 2007-11, § VI, 10-18-07; Ord. No. 2008-13, § IV, 5-22-08)

Sec. 14-58. - Mandatory spay and neuter.

- (a) *Purpose.* The county has determined that the unintended or uncontrolled breeding of dogs and cats within the county leads to many dogs, cats, puppies and kittens being unwanted, becoming strays, suffering privation and death, being impounded and euthanized at great expense to the community, and constituting a public nuisance and public health hazard. It is, therefore, declared that every feasible means of reducing the number of unwanted dogs, cats, puppies, and kittens be encouraged.
- (b) *Spaying, neutering of dogs and cats.*
 - (1) *Requirement.* No person may harbor a dog or cat six months of age or older within the unincorporated areas of Volusia County that has not been spayed or neutered unless such person holds an unaltered animal permit for each unaltered dog or cat, unless the dog or cat is otherwise exempt under this section.
 - (2) *Unaltered animal permit.*
 - a. *Qualifications.* An owner of an unaltered dog or cat shall qualify for an unaltered animal permit if one of the following is satisfied:
 1. *Shows and competitions.* The dog or cat is used to show, to compete or to breed, which is of a breed recognized by and registered with the American Kennel Club (AKC), United Kennel Club (UKC), American Dog Breeders Association (ADBA), Cat Fanciers' Association (CFA), or other bona fide registry and meets one of the following requirements:
 - i. The dog or cat has competed in at least one show or sporting competition sanctioned by a bona fide national registry within the last 365 days;
 - ii. The dog earned conformation, obedience, agility, carting, herding, hunting, protection, rally, sporting, working or other title from a purebred dog registry, referenced above, or other registry or dog sport association; or
 - iii. The owner of the dog or cat is a member of, and the dog or cat is registered with a bona fide purebred dog breed club or cat fancier's association, which maintains and enforces a code of ethics for dog or cat breeding that includes restrictions from breeding dogs or cats with genetic defects and life threatening health problems that commonly threaten the breed, or the owner

signs a statement under oath attesting that the dog or cat is being trained to comply with subsections i. or ii, above.

2. *Medical fitness.* A veterinarian licensed in the State of Florida certifies in writing that a dog or cat is medically unfit to undergo the required spay or neuter procedure because of a medical condition, including but not limited to age, would be substantially aggravated by the procedure or would likely result in the death of the dog or cat. The certification must state the date, if any, by which the dog or cat may be spayed or neutered. As soon as the medical condition that prevents a dog or cat from being spayed or neutered ceases to exist, it shall be the duty of the owner to have it spayed or neutered within 30 days.
3. *Law enforcement.* The dog is currently used by a law enforcement agency for law enforcement purposes or is part of a bona fide law enforcement animal breeding program.
4. *Service animals.* A dog or cat that is a service animal as defined in section 14-31 or is part of a bona fide service animal breeding program.
5. *Breeders.* The owner demonstrates to the animal control division proof of a breeding contract for a particular dog or cat, membership in a bona fide national, state or local organization, for the perpetuation of a given breed of dog or cat or proof of a litter produced by breeding of the dog or cat within the last 365 days.
6. *Hunting and herding dogs.* The dog is currently used as, or trained to be, a hunting or herding dog and the dog is registered with a bona fide national, state or local hunting or herding dog association. Alternatively, the owner of the dog signs a statement under oath attesting that the dog is used, trained, or will be trained to be a hunting or herding dog.

None of the aforementioned qualifications shall be construed to authorize the breeding or harboring of dogs or cats in violation of the Zoning Code of Volusia County, or exempt the owner or his dog or cat from any other provision of this chapter.

- b. *Deadline.* A dog or cat governed by this section shall be spayed or neutered by its owner or, if eligible, the owner shall obtain an unaltered animal permit within 30 days of the dog or cat becoming six months of age or, by September 1, 2008, whichever is later in time, or, in the case of an owner whom acquired a dog or cat after it becoming six months of age, 30 days of acquisition.
- c. *Microchipping.* As a condition to obtaining an unaltered animal permit, an eligible dog or cat must be implanted with an identifying microchip and the owner must provide

the microchip number to the animal control division. This requirement shall not apply to hunting or herding dogs.

- d. *Place of residence.* The address of the owner shall be presumed to be the residence of the dog or cat. All changes of address must be reported to the animal control division within 30 calendar days following such change.
 - e. *Change in ownership.* A permit holder shall notify the animal control division and the national registry applicable to the implanted microchip in writing of any change in ownership of a dog or cat within 30 calendar days.
 - f. *Term of permit.* An unaltered animal permit shall be valid for the life of the dog or cat.
 - g. *Revocation.* Upon receipt of information of violation of this section, the animal control division may issue a notice of revocation to a permit holder. The notice of revocation shall provide a summary of the information of the violation and shall be sent by certified mail, return receipt requested, by hand delivery by the sheriff, or animal control officer, or upon posting of the property at the address listed in the permit application. Any request for hearing shall be filed by the permit holder with the animal control division within ten days after the permit holder's receipt of said notice. The permit holder shall set forth the reasons why the permit holder believes the revocation would be an error. Failure to timely request a hearing shall render the revocation final. All hearings shall be conducted by the hearing officer within 30 days after the receipt of a request for hearing and in accordance with section 14-57. The original of the hearing officer's written decision shall be filed with the animal control division, and copies shall be mailed to the county attorney and the permit holder.
 - h. *Penalty.* Any person who violates any provision of this section is subject to the enforcement procedures of section 14-39 and penalties prescribed in section 14-32. These penalties shall not preclude the issuance of a notice of revocation to a holder of an unaltered animal permit for violations of this section.
- (3) *Exemptions.* A dog or cat that meets the following criteria shall be exempt from this section and not be required to obtain an unaltered animal permit:
- a. A dog or cat temporarily harbored within the unincorporated areas of Volusia County for less than 120 days within any calendar year.
 - b. The dog or cat is being harbored by a lawful humane society/animal shelter under the provisions of the Zoning Code of Volusia County, Florida, whether public or private, whose principal purpose is securing the adoption of dogs or cats or offering sanctuary for dogs or cats and certifies in writing to the animal control division that it does not engage in the breeding of dogs or cats, provided that the requirements of F.S. § 823.15,

are satisfied.

(Ord. No. 2008-13, § III, 6-5-08; Ord. No. 2008-16, § I, 7-3-08)

Sec. 14-59. - Humane care.

Prohibition. It shall be unlawful and a civil infraction for any person owning or responsible for caring for, confining or impounding an animal to fail to provide the animal with proper shelter, protection from the weather or humanely clean conditions as prescribed in this section.

- (1) *Indoor standards.* The following standards shall apply to the sheltering of animals within a fully enclosed structure:
 - a. The ambient temperature shall be maintained in a range that ensures that the animal will not suffer from heat stress (heat stroke or hyperthermia), nor from cold stress (frost bite or hypothermia).
 - b. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide clear and fresh air to the animal.
- (2) *Outdoor standards.* The following standards shall apply to the sheltering of animals outdoors or within a structure which is not fully enclosed:
 - a. Animals shall have sufficient shelter for refuge and protection from the elements and sufficient shade by natural or artificial means to protect the animal from direct sunlight.
 - b. An outdoor housing facility shall be provided that is an artificial structure with at least three sides, a bottom and a roof. The structure shall provide refuge and protection from the elements, be of sufficient size to allow the animals to sit, stand and lie in a normal manner and turn about freely and must allow for an exchange of fresh air.
- (3) *Food and water.* No animal shall be deprived of sufficient good and wholesome food and fresh water. Provisions shall be made available and refreshed daily, be suitable for the species and age of the animal and maintain a reasonable level of nutrition. Water shall be made available to the animal at all times.
- (4) *Medical care.* No animal shall suffer from the following untreated conditions: Open sores, lacerations, broken or dislocated bones, eye injury or infection, abnormally low body weight, nasal discharge caused by infection, poisoning, animal bites or life threatening trauma or injury. Proof that the animal is under medical supervision shall be a defense under this subsection.

(Ord. No. 2009-35, § V, 11-19-09)