




Meeting Date: 7/18/2023		AGENDA ITEM		Number: 10.A
Section:	SECOND READING OF ORDINANCES			
Item Category:	Second Reading of Ordinances	Res./Ord. No:	2023-34	
Strategic Goal:	Governance - Other			
Department:	City Attorney			
Subject:	Amendment to Code of Ordinances, Chapter 5 Animals and Fowl (SECOND READING)			
Budget Impact:	There is no impact upon the city budget.			
Summary:	The revisions to Chapter 5, Code of Ordinances, will add an additional level of animal accountability for dog owners and increased safety for all citizens.			
Recommended Action:	It is recommended that the City Commission approve the proposed amendment to the Code of Ordinances, Chapter 5, Animals and Fowl.			
Staff Contact:	Randy Hayes, City Attorney, (386) 676-3217			
Approval:				
Kelly McGuire, Finance Director		6/7/2023		
Claire Whitley, Assistant City Manager		6/7/2023		
Joyce Shanahan, City Manager		6/19/2023		



CITY OF ORMOND BEACH

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CITY ATTORNEY MEMORANDUM

To: The Honorable Mayor Partington and City Commissioners

From: Randal A. Hayes, City Attorney and
Justin Soard, Lead Animal Control Officer

Date: June 6, 2023

Subject: Amendment to Code of Ordinances, Chapter 5 Animals and Fowl

Introduction

This is a proposed amendment to the Code of Ordinances, Chapter 5, Animals and Fowl. The amendment mainly addresses dangerous and aggressive dogs, dogs at large, and failure to comply.

Discussion

In general, the City of Ormond Beach does not have a serious problem concerning aggressive or dangerous dogs. In the last 15 years, the city has never had more than two dangerous dog cases in one year, and most years has had one or no cases. However, because of the seriousness of any dangerous dog case, the matter deserves attention and as much regulation as reasonably possible. The city already has very high standards for ownership of dangerous dogs. For example, the city's requirement that dangerous dog owners obtain liability insurance is one of the few in the state with this requirement. The main issue facing animal control is not the number of dangerous dogs, or that the current regulations are not tough enough. The main problem is that the few dogs that have caused concerns typically have owners that are wholly irresponsible with the animals and will not abide by the city's regulations no matter how strictly written. Therefore, this amendment particularly addresses failure to comply issues, including dangerous dogs that are found "at large", mandatory impoundment and procedures for destruction. The amendment also adds provisions for liability to property owners, including landlords, that permit non-complaint dangerous dogs onto their property. In the experience of animal control, many of the dangerous dog owners do not own their property, and many are transient with property owners allowing the situation to persist. Fines related to these violations are also increased.

In addition to tightening the dangerous dog regulation, this amendment adds another class of dog to its regulation, classification of "aggressive dog" for dogs that severely injure or kill another domestic animal. There are many dogs that are non-aggressive to

people, but are very aggressive towards other animals. Under Florida law, a dog can be deemed dangerous if it seriously injures or kills another domestic animal while off its owner's property more than once. The city is preempted by the Florida legislature from modifying this definition. Although infrequent, there have been unfortunate occasions when a dog has been at large and severely injured or killed another's pet. Because of the statutory definition of dangerous dog, the city cannot deem this dog "dangerous" for the one incident. The offending dog owner is usually cited with a "dog at large" violation (although the owner of the injured dog does have civil remedies). In essence, someone's pet was the "one free kill" under the Florida dangerous dog law. Adding a new class of "aggressive dog" does not change the definition of dangerous dog, but reasonably regulates aggressive dogs that severely injure or kill another's pet.

This amendment adds additional provisions for the city to recover costs of impoundment for all causes under Chapter 5. All impounded animals are transferred to the Halifax Humane Society (HHS) per the city's contract with HHS. The 2022 animal control cost budget was \$38,000.00. Animal control reported costs of \$28,000.00 in 2022, approximately 10k under budget. The 28k also included all wildlife calls. The largest cost to the department is HHS impoundment. The largest share of impoundment cost is due to owner hospitalization/death and drop off of stray or abandoned animals found in the city. Owner incarceration, although less frequent, also occurs. Although dangerous dogs are impounded, the cost of this impoundment is a very small fraction of the animal control budget because it is uncommon. Although this amendment contains additional regulation for recoupment of costs, lack of regulation is not the main problem. Recovery for impoundment for any cause is not always possible when owners are unable to pay and collection efforts would be fruitless. The city is also dependent on HHS to collect impoundment fees.

This amendment also contains a few other minor changes to reflect current practices or consistency with Florida Statutes.

Budget Impact

There is no impact upon the city budget.

Citizen Impact

The revisions to Chapter 5, Code of Ordinances will add an additional level of animal accountability for dog owners and safety for all citizens.

Recommendation

It is recommended that the City Commission approve the proposed amendment to the Code of Ordinances, Chapter 5, Animals and Fowl.

ORDINANCE NO. 2023-34

AN ORDINANCE AMENDING SECTION 5-1, DEFINITIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-10, ANIMALS CONSTITUTING A NUISANCE PROHIBITED, OF ARTICLE I, IN GENERAL, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-13, FEEDING OF FERAL OR STRAY ANIMALS PROHIBITED, OF ARTICLE I, IN GENERAL, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-23, RUNNING AT LARGE PROHIBITED OF ARTICLE II, LIVESTOCK, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-25, NOTICE OF IMPOUNDING, OF ARTICLE II, LIVESTOCK, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-62, LICENSES ANNUAL; FEE, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-67, DUPLICATE TAGS, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-69, RUNNING AT LARGE PROHIBITED, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING 5-70, IMPOUNDING OF VIOLATORS, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-72, RESPONSIBILITY FOR PAYMENT AND RECLAIMING AFTER IMPOUNDMENT, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-78, DANGEROUS DOGS, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-79, EXCEPTIONS, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-80, INVESTIGATION AND DETERMINATION OF DANGEROUS DOG, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-81, ACTION TO BE TAKEN BY OWNERS/KEEPERS OF DANGEROUS DOGS, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-82, RESERVED, OF ARTICLE III, DOGS AND CATS; OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL; AMENDING SECTION 5-83, OPTIONAL ACTION, OF ARTICLE III, DOGS AND CATS;

OTHER ANIMALS, OF CHAPTER 5, ANIMALS AND FOWL,
OF THE CITY OF ORMOND BEACH CODE OF
ORDINANCES; AND SETTING FORTH AN EFFECTIVE
DATE.

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND
BEACH, FLORIDA, THAT:**

SECTION ONE. Section 5-1, Definitions, of Article I, In General, of Chapter 5,
Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby
amended to read as follows:

Sec. 5-1. 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:

Adequate shelter means provision of and access to a secure weather-resistant shelter that is
suitable for the age, height, size, breed, and type of each animal; provides adequate air ventilation
and adequate space for each animal to stand up, lay down, stretch out, and turn around without
being impeded by the shelter; is safe and protects each animal from injury, rain, hail, the adverse
effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables
each animal to be clean and dry, except when detrimental to the species; during hot weather, is
properly shaded with a covering and does not readily conduct heat; during cold weather, has a
windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar
shavings, or the equivalent that is sufficient to protect the animal from cold and promote the
retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad,
floor mat, or similar device that is large enough for the animal to lie on in a normal manner and
can be maintained in a sanitary manner. A shelter whose wire, grid, or slat floor permits an
animal's feet to pass through the openings; sags under the animal's weight; or otherwise does not
protect the animal's feet or toes from injury is not adequate shelter for purposes of this section.

Animal means all creatures herein after defined in this section and every living dumb
~~creature.~~ shall have the contextual meaning of the circumstances in which the word is used.

At large means off the premises of its owner and not under restraint, leash, or chain, or not
otherwise controlled by a competent person.

Cat means any member of the animal species *Felis Catus*.

Continuous means without interruption.

Domesticated animal means any of various animals domesticated by man as to live and breed in a tame condition, such as domestic dogs or cats, and shall include as provided in F.S. §585.01, any equine or bovine, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea, or other domesticated beast or bird.

Feral means an unsocialized animal which may be one or more generations removed from a home environment and that may subsist in a colony of similar animals living on the fringes of human existence.

Frequent means happening or appearing often or at close intervals.

Habitual means a usual act, practice or manner that is acquired or displayed by frequent repetition.

Horse includes any mule, burro, pony, jack or jenny.

Kennel means the commercial business of breeding, buying, selling or boarding of dogs or cats.

Livestock means ~~any animal of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.~~ grazing animals, such as cattle, horses, mules, sheep, hogs, goats, other hoofed animals, ostriches, emus, and rheas that are raised for private use or commercial purposes as provided in F.S. §585.01.

Owner means any person that has licensed an animal in accordance with the requirements of this chapter; or who has vaccinated such animal against rabies in accordance with F.S. § 828.30; or who otherwise has or claims ownership or a right of property in any animal: or any custodian or other person in charge of any animal, domestic or otherwise.

Repeated means renewed or recurring again and again.

Stray means a free-roaming animal that is not owned by anyone; that has no reliable source of shelter or food from anyone claiming ownership or a right of property in the animal; and that is not licensed pursuant to this chapter, or vaccinated for rabies as required pursuant to F.S. § 828.30.

Tether shall mean a trolley cable, cord, rope, chain, strap, or any other linear thing that restrains, limits or confines the free unimpeded movement of a dog, cat, or other animal to a limited space or area.

Tethering or *tethered* shall mean the act of affixing or attaching a tether to a dog, cat, or other animal. The act of "tethering" shall not include the use of a leash or other restraint when utilized by a person while walking or exercising a dog, cat, or other animal; nor shall it include

commercial safety restraint devices that are designed for use in vehicles for the protection of animals while they are being transported from one location to another.

Unlicensed dog or cat means a dog or cat for which the license for the current year has not been paid, or to which the tag provided for in this chapter is not attached.

Wild animal means any animal not ordinarily and customarily domesticated, including, but not limited to, any skunk, raccoon, opossum, squirrel ~~or~~, fox, or coyote.

SECTION TWO. Section 5-10, Animals constituting a nuisance prohibited, of Article I, In General, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-10. Animals constituting a nuisance prohibited.

It shall be unlawful for any person to own or keep any animal described in section 5-1 of this chapter that becomes a nuisance in the community. The term "nuisance," for the purposes of this chapter, shall include, but is expressly not restricted to the following:

- (1) Frequent and repeated barking, howling, or making noise for two or more continuous intervals of at least 30 seconds during any period of ten consecutive minutes or more at any time;
- (2) Barking, howling, or making noise for a continuous period of one minute or more at any time;
- (3) Frequent digging into, breaking or otherwise injuring or damaging shrubbery, trees, lawns, garbage, or stored materials on public or private property not belonging to the owner or custodian of the animal;
- (4) Frequent or habitual depositing of excreta on property not belonging to the owner or custodian of the animal.
- (5) Running at large.

SECTION THREE. Section 5-13, Feeding of feral or stray animals prohibited, of Article I, In General, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-13. Feeding of feral or stray animals prohibited.

It shall be unlawful for any person to feed a feral or stray animal within the city except by "owners," as that term is defined herein, ~~and except that such feeding may take place in feral cat colonies that have been approved in writing by the police chief or his designee and such feeding of stray animals may occur temporarily while ownership of said animal, as defined in section 5-1, is re-established~~ unless the animal is part of a spay and neuter return to field program.

SECTION FOUR. Section 5-23, Running at large prohibited, of Article II, Livestock, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-23. Running at large prohibited.

It shall be unlawful to allow or permit any ~~horses, mules, cattle, swine or other~~ livestock to roam or run at large within the city.

SECTION FIVE. Section 5-25, Notice of impounding, of Article II, Livestock, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-25. Notice of impounding.

Immediately after impounding any ~~domesticated animal~~ livestock under the provisions of section 5-24, it shall be the duty of the animal control officer to make every reasonable effort to identify and notify the owner of the animal.

SECTION SIX. Section 5-62, Licenses annual; fee, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-62. Licenses annual; fee.

Dog and cat licenses shall be issued annually by the animal control officer upon payment of a license fee of \$5.00 for each animal. ~~as established by the City.~~

SECTION SEVEN. Section 5-67, Duplicate tags, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-67. Duplicate tags.

In case a dog or cat tag is lost or destroyed, a duplicate will be issued by the animal control officer, upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of ~~\$0.50~~ for such duplicate.

SECTION EIGHT. Section 5-69, Running at large prohibited, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-69. Running at large prohibited.

(a) No owner or keeper of any animal shall permit such animal to run at large at any time, whether licensed or unlicensed. Dogs shall be on a leash not to exceed eight feet in length at all times when off the owner's property. Evidence that such owner or keeper has made an attempt to preclude the animal from running at large shall be considered by the special magistrate in its determination as to whether or not a violation of this section has occurred.

(b) A dog that has been deemed dangerous that is subsequently found at large shall be immediately impounded and the matter referred to the Special Magistrate under Section 8-83, Failure to Comply.

(c) In addition to other penalties provided by this Chapter and Florida Statutes, If a dog that has been deemed aggressive or dangerous injures a domestic animal or person while at large, the violation shall be deemed irreversible and irreparable in nature and a fine of \$5,000.00, or the then highest fine allowed by law shall apply.

SECTION NINE. Section 5-70, Impounding of violators, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-70. Impounding of violators.

An animal control officer has the authority to impound any animal at large, pursuant to the enforcement or violation of any ordinance of this Chapter or as provided by Florida Statutes. It shall be the duty of the animal control officer to apprehend any animal found running at large ~~and to impound such domesticated animal~~. The city shall establish and operate, either independently or in cooperation with a humane society or a veterinarian, a suitable place for the impounding, care and final disposal of all animals picked up under the terms of this ~~article~~, Chapter and said place shall be known as the animal shelter. The animal control officer, upon receiving any animal, shall make a complete registry, entering the breed, color and sex of such animal, whether licensed or unlicensed. If licensed, he shall enter the name, address and e-mail address of the owner and the number of the license tag. Licensed dogs or cats shall be separated from unlicensed dogs or cats.

SECTION TEN. Section 5-72, Responsibility for payment and reclaiming after impoundment, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-72. Responsibility for payment and reclaiming after impoundment.

The owner of any ~~dog or cat~~ animal impounded pursuant to city ordinance or Florida Statutes can reclaim such ~~dog or cat animal~~, upon payment of a license fee and the charges hereinafter imposed, and of all costs and charges incurred by the city for impounding and maintenance of such ~~dog or cat animal~~. No ~~dog or cat animal~~ shall be reclaimed unless the owner furnishes the animal control officer a certificate showing that the ~~dog or cat animal~~ has been vaccinated against rabies within the preceding 12 months. If the owner cannot furnish said certificate, the ~~dog or cat animal~~ shall be transported to an animal shelter or veterinarian where the appropriate vaccination can be administered prior to its release. ~~The following charges shall be paid to the city through the animal control officer: For keeping or impounding any animal, \$20.00; and for each day kept, \$5.00.~~ Any of the duties herein imposed upon the animal control officer may be delegated to an animal shelter by a service agreement approved by resolution of the city commission. In all instances of impoundment, owners of animals are responsible for the full cost of impoundment as charged by the shelter.

SECTION ELEVEN. Section 5-78, Dangerous dogs, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-78. Aggressive and dangerous dogs.

A dog shall be deemed "dangerous" if:

- (1) According to the records of the police department, it has:
 - a. Aggressively bitten, attacked or endangered, or has inflicted severe injury (any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery) on any human being lawfully on public or private property;
 - b. More than once severely injured or killed a domestic animal (as defined by F.S. § 585.01(10)) while off of the property of its owner or keeper; or
[A dog may be deemed "aggressive" after a single occurrence of killing or severely injuring a domestic animal without provocation]
 - c. When unprovoked (the victim has been conducting himself peacefully and lawfully), 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 victims and dutifully investigated by the appropriate authority;
- (2) It has been used primarily or in part for the purpose of dog fighting;
- (3) It is trained for dog fighting; or
- (4) It is used as a guard dog.

SECTION TWELVE. Section 5-79, Exceptions, of Article III, Dogs and Cats;

Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-79. Exceptions.

- (a) A dog shall not be deemed dangerous or aggressive if:
 - (1) The threat, injury or damage was sustained by a person who, at the time:
 - a. Was unlawfully on the property;
 - b. While lawfully on the property, was tormenting, abusing or assaulting the dog or its owner or a family member; or
 - c. The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
 - (2) It is owned by a law enforcement agency and used for law enforcement work.
- (b) Hunting dogs are exempt from the provisions of this Code 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 Code when engaged in any legal procedures. However, such dogs at all other times in all other respects shall be subject to all applicable laws. Dogs that have been classified as dangerous shall not be used for hunting purposes.

SECTION THIRTEEN. Section 5-80, Investigation and determination of dangerous dog, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-80. Investigation and determination of dangerous or aggressive dog.

- (a) An animal control officer shall investigate reported incidents involving any dog that may be a "dangerous dog," or "aggressive dog" as defined in section 5-78, 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 or aggressive. Any animal that is the subject of a dangerous or aggressive dog investigation, that is not impounded with an animal shelter, shall 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 or aggressive dog classification. The address of where the animal resides shall be provided to the police department. No dog that is the subject of a dangerous or aggressive dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous or aggressive dog classification. In the event that a dog is to be destroyed, the dog shall not be relocated or ownership transferred.
- (b) After the investigation, the animal control officer shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous or aggressive and shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control officer shall provide written notification of the sufficient cause finding, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process. The owner may file a written request for a hearing before a special master within seven calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than five calendar days after receipt of the request from the owner. If the owner fails to request a hearing before a special master, the determination of the animal control officer shall become final and the animal control officer shall then provide the owner with the notice required by subsection (d) of this section.
- (c) At any requested hearing, a special master shall determine whether or not the subject dog is in fact a "dangerous dog," or "aggressive dog" as defined in section 5-78, which determination shall be based upon the evidence and testimony presented at the time of the

hearing by the owner and/or keeper, witnesses to any incident(s) which may be considered relevant to the determination, county health department personnel, humane society personnel, animal control personnel, law enforcement personnel, or any other person possessing information relevant to the determination.

- (d) Once a dog is finally determined to be a dangerous or aggressive dog, the animal control officer or a special master, whoever makes the final determination, shall provide written notification to the owner by registered mail, certified hand delivery or service, and the owner may file a written request for a hearing in the county court to appeal the determination within ten business days after receipt of a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal.

SECTION FOURTEEN. Section 5-81, Action to be taken by owners/keepers of dangerous dogs, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-81. Action to be taken by owners/keepers of dangerous dogs.

- (a) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by the police department, placed in quarantine, if necessary, for the proper length of time, or impounded and delivered to an animal shelter to be held for ten business days after the owner is given written notification under section 5-80, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-80. 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.
- (b) If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and delivered to the Halifax Humane Society to be held for ten business days after the owner is given written notification under section 5-80, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-80. 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. 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 dog is guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

- (c) 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, punishable as provided in F.S. § 775.082, 775.083 or 775.084. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and delivered to the Halifax Humane Society to be held for ten business days after the owner is given written notification under section 5-80, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-80. 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.
- (d) If the owner files a written appeal under section 5-80, the dog must be held and may not be destroyed while the appeal is pending.
- (e) If the dog attacks or bites a person who is engaged in a criminal activity at the time of the attack, the owner is not guilty of any crime specified under this section.
- (f) Within 72 hours after a dog has been classified as dangerous by the animal control officer or by a special master, or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the police department, and the certificate shall be renewed annually. The fee for such registration shall be ~~\$250.00~~ \$500.00 per year. The police department is authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the police department sufficient evidence of:
 - (1) A current certificate of rabies vaccination for the dog;
 - (2) A proper enclosure to confine a dangerous dog and 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. For purposes of this section, "proper enclosure" means, while on the owner's property, 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. Such pen or other structure shall have minimum dimensions of five feet by ten feet, have secure sides and a secure top. Unless it has a bottom secured to the sides, the sides shall be embedded into the ground for a distance of no less than two feet;
 - (3) Permanent identification of the dog, being a tattoo of the licensing number or such other number as the police chief or his designee shall determine, on the right inside thigh, or a microchip with the licensing number or other such number as the police chief or his designee shall determine, performed by a licensed veterinarian or a licensed tattooist.

- (g) The owner shall immediately notify the police department when a dog that has been classified as dangerous:
 - (1) Is loose or unconfined;
 - (2) Has bitten a human being or attacked another animal;
 - (3) Is sold or given away or dies;
 - (4) Is moved to another address.

Prior to a dangerous dog being sold or given away, the owner shall provide the name, address, e-mail address and telephone number of the new owner to the police department. The new owner must comply with all of the requirements of this Code. The police department must be notified by the owner of a dog classified as dangerous that the dog is in the city.

- (h) The owner shall not permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash, ~~with a minimum tensile strength of 300 pounds~~ and no longer than three feet in length, and the dog shall be harnessed and under the control of a competent person capable of restraining the dog. The muzzle must be made in a manner that will not cause injury to the dog or interference with its vision or respiration but will prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his sight and only members of his immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle. Dangerous dogs are not permitted in any public parks, including dog parks.
- (i) Within 30 days of a dog being classified as dangerous by the animal control officer or by a special master or within 30 days of a dangerous dog classification being upheld by the county court on appeal or within 30 days of a dangerous dog being moved into the city from another jurisdiction, the owner or keeper of a dangerous dog shall present to the city proof that he 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 certificate of registration for the dangerous dog. The owner or keeper shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the 12-month period for which a certificate of registration is sought, unless he ceases to own or keep the dangerous dog prior to the expiration date of the certificate of registration.
- (j) Any dog classified as dangerous shall not be used for breeding. Dogs classified as dangerous shall be spayed or neutered by a licensed veterinarian within 30 days of such classification 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.
- (k) This section shall have retrospective application and apply to all dogs classified as dangerous, regardless of the date of classification.
- (l) This section shall apply to all dogs classified as dangerous, regardless of the jurisdiction that classified the dog.
- (m) Any property owners, including but not limited to landlords, that permit a dangerous dog to remain on their premises when the owner or keeper of the dog has not met the requirements of this section shall be held in violation of this section and for all applicable fines and costs in the enforcement thereof.

SECTION FIFTEEN. Section 5-82, Reserved, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-82. ~~Reserved.~~ Action to be taken by owners/keepers of aggressive dogs.

- (a) Within 72 hours after a dog has been classified as aggressive by the animal control officer or by a special master, the owner of the dog must obtain a certificate of registration for the dog from the police department, and the certificate shall be renewed annually. The fee for such registration shall be \$250.00 per year. The police department is authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the police department sufficient evidence of:
 - (1) A current certificate of rabies vaccination for the dog;
 - (2) A proper enclosure to confine an aggressive dog and 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 an aggressive dog on the property;
 - (3) Permanent identification of the dog, such as a microchip with the licensing number or other such number as the police chief or his designee shall determine, performed by a licensed veterinarian.
- (b) The owner shall immediately notify the police department when a dog that has been classified as aggressive
 - (1) Is loose or unconfined;
 - (2) Has injured a human being or attacked another animal;

- (c) Any owner or keeper of an aggressive dog shall keep the dog muzzled, leashed, and harnessed at all times when off the owner or keeper's private property. Aggressive dogs are not permitted in any public parks, including dog parks.
- (d) Any dog classified as dangerous shall not be used for breeding. Dogs classified as aggressive shall be spayed or neutered by a licensed veterinarian within 30 days of such classification 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

SECTION SIXTEEN. Section 5-83, Optional action, of Article III, Dogs and Cats; Other Animals, of Chapter 5, Animals and Fowl, of the City of Ormond Beach, Florida, *Code of Ordinances* is hereby amended to read as follows:

Sec. 5-83. ~~Optional action.~~ Failure to comply.

- (a) Any owner/keeper of a ~~dangerous~~ dog ~~deemed dangerous pursuant to section 5-78(1)a or 5-78(1)b of this Chapter~~ who is unable or unwilling to comply with Section 5-81 shall promptly have the dog humanely euthanized by an animal shelter or a licensed veterinarian at the owner's expense. At the time the dog is delivered to the animal shelter or veterinarian, the owner/keeper shall advise the person receiving the dog that it is a dangerous dog.
- (b) If the owner fails to voluntarily euthanize the dog, animal control has authority to seize the dog and provide notice of the intention to destroy the dog to the owner or keeper of the animal due to the likelihood of a future threat to the public safety, health and welfare. Animal control shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control officer shall provide written notification of the sufficient cause finding, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process. The owner may file a written request for a hearing before a special master within seven calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than five calendar days after receipt of the request from the owner. If the owner fails to request a hearing before a special master, the determination of the animal control officer shall become final and the animal control officer shall then provide the owner with the notice required by subsection (d) of this section.

- (c) At any requested hearing, a special master shall determine whether or not there has been a failure to comply with section 5-81, which determination shall be based upon the evidence and testimony presented at the time of the hearing by the owner and/or keeper, witnesses to any incident(s) which may be considered relevant to the determination, county health department personnel, humane society personnel, animal control personnel, law enforcement personnel, or any other person possessing information relevant to the determination.
- (d) Once the determination that the owner or keeper of the dog is unable or unwilling to comply with section 5-82, the animal control officer or a special master, whoever makes the final determination, shall provide written notification to the owner by registered mail, certified hand delivery or service, and the owner may file a written request for a hearing in the county court to appeal the determination within ten business days after receipt of a written determination.

SECTION SEVENTEEN. This Ordinance shall take effect immediately upon its adoption.

PASSED UPON at the first reading of the City Commission, this 6th day of June, 2023.

PASSED UPON at the second and final reading of the City Commission, this 18th day of July, 2023.

BILL PARTINGTON
Mayor

ATTEST:

SUSAN CARROLL DAUDERIS
City Clerk