

ORDINANCE NO. 97-11

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA ADOPTING THE FOLLOWING ADMINISTRATIVE POLICIES AND PROCEDURES FOR THE INVESTIGATION, DETERMINATION, AND DISPOSITION OF DANGEROUS DOG AND DANGEROUS CAT COMPLAINTS WITHIN THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Dangerous Dogs and Cats are a serious threat to the safety and welfare of the people of St. Johns County; and

WHEREAS, Chapter 767, Florida Statutes requires and authorizes local governments to implement procedures to investigate, make determinations, and make dispositions of Dangerous Dog complaints:

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida that the following Administrative Policies and Procedures for the investigation, determination, and disposition of Dangerous Dog and Dangerous Cat complaints within the unincorporated areas of St. Johns County, Florida are hereby adopted.

SECTION 1. DEFINITIONS

1. "Dangerous Dog" or "Dangerous Cat" means any dog or cat, respectively, that according to the records of the St. Johns County Division of Animal Control (the "Division of Animal Control") has been determined to have:
 - (a) Aggressively Bitten, attacked, or endangered, or has inflicted Severe Injury on a human being on public or private property; or
 - (b) while off the Owner's property, more than once Severely Injured or killed a domestic animal; or
 - (c) been used primarily, or in part, for the purpose of fighting, or is a dog or cat trained for fighting; or
 - (d) 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 Division of Animal Control.

2. "Aggressively Bitten" means any bite that breaks the skin and draws blood, except where there exists clear and convincing evidence that the bite was non-hostile. However, any dog or cat bite that breaks the skin and draws blood on the face or neck of a human being shall be deemed aggressive.
3. "Animal Control Officer" means any individual employed, contracted with, or appointed by the Division of Animal Control for the purpose of aiding in the enforcement of this Ordinance or any other law or ordinance 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.
4. "Complaining Party" means any person who by written affidavit or complaint made to the Division of Animal Control alleges to have been the victim (or parent or guardian of any human victim, or Owner of any animal victim) of any dog or cat activity that could potentially classify said dog or cat as a Dangerous Dog or Dangerous Cat.
5. "Division of Animal Control" means the agency operated by the Board of County Commissioners of St. Johns County, responsible for the control of regulation, license, seizures and impoundment of Dangerous Dogs and Dangerous Cats, and the enforcement of the provisions of this Ordinance and state regulations relating to dogs and cats as deemed necessary. If called in those areas or time periods not served by the Division of Animal Control, the Sheriff shall carry out the duties of the Division of Animal Control under this Ordinance.
6. "Severe Injury" means any physical injury that results in broken bones, multiple puncturing bites, or disfiguring lacerations requiring sutures or reconstructive surgery.
7. "Proper Enclosure of a Dangerous Animal" means, while on the Owner's property, a Dangerous Dog or Dangerous Cat 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 or cat from escaping over, under, or through the structure and shall also provide protection from the elements. A structure or barrier relying on an electric current or field to enclose a dog or cat is expressly not a Proper Enclosure of a Dangerous Animal.
8. "Owner" means any person, persons, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian.
9. "Unprovoked" means that the victim (person or animal) had been acting peacefully and lawfully, and had been attacked, bitten or chased in a menacing fashion by a dog or cat.

SECTION 2. INVESTIGATION, REPORTING AND EVALUATION REQUIREMENTS:

Any complaint involving a dog or cat that has allegedly Aggressively Bitten or attacked, or otherwise potentially fits the description pertaining to a Dangerous Dog or Dangerous Cat, made to the Division of Animal Control or the Sheriff's Office, must be (1) investigated by an Animal Control Officer or law enforcement officer, (2) reported to the Division of Animal Control, and (3) evaluated by the Division of Animal Control.

SECTION 3. INVESTIGATION AND DETERMINATION PROCEDURES

1. The Division of Animal Control (or Sheriff's Office in lieu of) shall investigate reported incidents involving any dog or cat 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 law enforcement officer, desiring to have an animal classified as a Dangerous Dog or Dangerous Cat.
2. The Division of Animal Control shall consider all available evidence reasonably obtainable when making its initial determination; including Animal Control Officer or law enforcement officer reports, witness reports, medical reports, and prior complaints or reports about the dog or cat in question. All such evidence shall be preserved for subsequent hearings, if any.
3. After the investigation, the Division of Animal Control shall make an initial determination as to whether there is sufficient cause to classify the animal as a Dangerous Dog or Dangerous Cat, and shall afford the Owner or any Complaining Party an opportunity for a hearing prior to making a final determination. The Division of Animal Control shall provide a written notification of the initial determination to the Owner, and any Complaining Party, by registered mail, certified hand delivery, or service in conformance with the provisions of Chapter 48, Florida Statutes relating to service of process. The Owner, or any Complaining Party, may file a written request to the Division of Animal Control for a hearing within 7 calendar days from the date of receipt of the notification of the initial determination. If a hearing is requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than 5 days after receipt of the request from the Owner or Complaining Party.
4. Any animal that is the subject of a Dangerous Dog or Dangerous Cat investigation, that is not impounded with the Division of Animal Control or other lawful authority, shall be humanely and safely confined by the Owner in a securely fenced or enclosed area pending the outcome of the investigation and determination, and resolution of any hearings related to the Dangerous Dog or Dangerous Cat classification. The address of where the animal resides shall be provided to the Division of Animal Control. No animal that is the subject of a Dangerous Dog or Dangerous Cat investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a Dangerous Dog or Dangerous Cat classification. In

the event that a dog or cat is to be destroyed, the dog or cat shall not be relocated or ownership transferred.

5. Once an animal is classified as a Dangerous Dog or Dangerous Cat (after Section 3.3 hearing decision, if any, or after final determination if no hearing requested), the Division of Animal Control 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 classification within 10 business days after receipt of a written determination of Dangerous Dog or Dangerous Cat classification and must confine the animal in a Proper Enclosure of a Dangerous Animal pending a resolution of the appeal.

SECTION 4. HEARING PROCEDURES

1. If an Owner or Complaining Party requests a hearing in accordance with Section 3.3 above, the Division of Animal Control shall notify the County Administrator. The County Administrator shall schedule a hearing within the time limits delineated in Section 3.3 above. If a hearing is scheduled, the Owner, any Complaining Party, and any witnesses that have provided written statements during the investigation stage, shall be notified of the time and place of hearing. The hearing shall be held in the vicinity of the County Administration Complex.

2. The County Administrator or his designee shall conduct the hearing (as Hearing Officer) and shall make written findings of fact and render a written decision in the case. The Hearing Officer may render an informal verbal decision at the close of the hearing, but shall within 5 business days (not counting day of hearing) render a final written decision with findings of fact and shall notify the Division of Animal Control in writing with a signed decision. The Division of Animal Control shall notify the Owner, and any Complaining Party, in accordance with Section 3.5 above.

3. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Minutes shall be kept of the hearing, and the hearing shall be open to the public, but need not be publicly advertised. Testimony may, but need not be made under oath. The fact that testimony is, or is not, under oath may be considered by the Hearing Officer in determining the weight or truthfulness of that testimony. The hearing format delineated in Attachment 1 (incorporated herein), though not mandatory, shall act as a guideline for hearings under this Section.

4. The subject dog or cat is not allowed at the hearing.

5. Nothing in this Section shall be construed to affect County Court procedures in any hearing requested in accordance with Section 3.5 above.

SECTION 5. REGISTRATION PROCEDURES

1. Within 14 days after an animal has been classified as a Dangerous Dog or Dangerous Cat, the Division of Animal Control (after Section 3.3 hearing decision, if any), or within 14 days after a Dangerous Dog or Dangerous Cat classification is upheld by the County Court on appeal, the Owner of the dog or cat must obtain a certificate of registration for the dog from the Division of Animal Control, and the certificate shall be renewed annually. The Division of Animal Control is authorized to issue such certificate of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the Division of Animal Control sufficient evidence of:

- (a) Ownership of the dog or cat.
- (b) A current certificate of rabies vaccination for the dog or cat.
- (c) A Proper Enclosure of a Dangerous Animal to confine the dog or cat, 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 or Dangerous Cat on the property.
- (d) Permanent identification of the dog or cat, such as a tattoo on the inside thigh or electronic implantation.

2. The Owner shall immediately notify the Division of Animal Control when an animal that has been classified as a Dangerous Dog or Dangerous Cat:

- (a) is loose or unconfined.
- (b) has bitten a human being or attacked another domestic animal.
- (c) is sold, given away, or dies.
- (d) is moved to another address.

3. Prior to a Dangerous Dog or Dangerous Cat being sold or given away, the Owner shall (1) notify the potential new Owner that the animal is classified as a Dangerous Dog or Dangerous Cat, and (2) provide the name, address and telephone number of the new Owner to the Division of Animal Control. The new Owner must comply with all of the requirements of this Ordinance, even if the animal is moved from one local jurisdiction to another within the state. The Division of Animal Control must be notified by the Owner of an animal classified as a Dangerous Dog or Dangerous Cat (or functionally equivalent title from another county, city, state, or country) that the animal is in the Division's jurisdiction (the unincorporated areas of St. Johns County).

4. It is unlawful for the Owner of a Dangerous Dog or Dangerous Cat to permit the dog or cat to be outside a Proper Enclosure of a Dangerous Animal unless the dog or cat is muzzled and restrained 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 animal or interfere with its vision or respiration but will prevent it from biting any person or animal. The Owner may exercise the animal in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the animal remains at all times within the Owner's sight, and only members of the Owner's immediate household or persons 18 years of age or older are allowed in the enclosure when the animal is present. When being transported, such animals must be safely and securely restrained within a vehicle.

5. The fee for certificate of registration shall be One Hundred Dollars (\$100.00) per dog or cat, renewed annually.

6. Any animal classified as a Dangerous Dog or Dangerous Cat shall not be used for breeding. Dangerous Dogs and Dangerous Cats shall be spayed or neutered by a licensed veterinarian within thirty (30) days of such classification unless:

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

7. Any person who violates any provision of this Section (Section 5) is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500.00.

SECTION 6. EXEMPTIONS

1. An animal shall not be declared a Dangerous Dog or Dangerous Cat if the threat, injury, or damage was sustained by a person who, at the time, was tormenting, physically abusing, or physically assaulting the dog or cat or its Owner or a family member. No animal may be declared a Dangerous Dog or Dangerous Cat if the dog or cat was protecting or defending a human being within the immediate vicinity of the dog or cat from an unjustified attack or assault.

2. Hunting dogs are exempt from the provisions of this Ordinance when engaged in any legal hunt or bonafide training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieval trials, and herding trials are exempt from the provisions of this Ordinance when engaging any legal procedures. However, such dogs at all other times in all other respects shall be subject to this Ordinance and other local laws. Dogs that have been classified as Dangerous Dogs shall not be used for hunting purposes.

3. This Ordinance does not apply to dogs used by law enforcement officials when said dogs are in the process of performing law enforcement work.

4. If a dog or cat attacks or bites a person who is engaged in or attempting to engage in a crime against a person, persons, or property at the time of the attack, the Owner is not guilty of any crime specified under this Ordinance.

SECTION 7. ATTACK OR BITE OF DOG OR CAT NOT PREVIOUSLY CLASSIFIED DANGEROUS

1. If an animal that has not been classified a Dangerous Dog or Dangerous Cat (and Owner has not been notified of a sufficient cause to classify as such) attacks and causes Severe Injury to, or death of, any human, the dog or cat shall be immediately confiscated by an Division of Animal Control, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the Owner is given written notification under Section 767.12, Florida Statutes and thereafter destroyed in an expeditious and humane manner. This 10 day time period shall allow the Owner to request a hearing equivalent to that under Section 3 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. In addition, if the Owner of the dog or cat had prior knowledge of the animal's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the Owner of the dog or cat is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083 Florida Statutes.

SECTION 8. ATTACK OR BITE BY CLASSIFIED DANGEROUS DOG OR DANGEROUS CAT

1. If an animal that has previously been classified a Dangerous Dog or Dangerous Cat (or Owner has been notified of a sufficient cause to classify as such) attacks or bites a person or a domestic animal, the Owner is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes. In addition, the Dangerous Dog or Dangerous Cat shall be immediately confiscated by the Division of Animal Control, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the Owner is given written notification under Section 767.12 Florida Statutes, and thereafter destroyed in an expeditious and humane manner. This 10 day time period shall allow the Owner to request a hearing equivalent to that under Section 3 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.
2. If an animal that has previously been classified a Dangerous Dog or Dangerous Cat (or Owner has been notified of a sufficient cause to classify as such) 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 Section 775.082, Section 775.083, or Section 775.084, Florida Statutes. In addition, the animal shall be immediately confiscated by the Division of Animal Control, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the Owner is given written notification under Section 767.12 and thereafter destroyed in an expeditious and humane manner. This 10 day time period shall allow the Owner to request a hearing equivalent to that under Section 3 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.

3. If the Owner files a written appeal under Section 767.12 or Section 767.13, Florida Statutes the dog must be held and may not be destroyed while the appeal is pending.

SECTION 9. QUARANTINE. All dogs or cats that are believed to have bitten or otherwise have caused their saliva or other bodily fluids or tissues to enter the blood stream of a human being shall be quarantined, at Owner's cost, in accordance with, or in the same manner as required by St. Johns County Ordinance 84-62, Section 4, as may be amended from time to time. If the Owner is unascertainable, or declared indigent, St. Johns County shall fund the quarantine expenses.

SECTION 10. PENALTIES. Violations of this Ordinance shall be punished in accordance with Section 767.12(7), Florida Statutes (1995), unless otherwise provided.

SECTION 11. EFFECTIVE DATE. This Ordinance shall be effective upon filing with the Division of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, State of Florida, this 11th day of March, 1997.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 

Chairman

ATTEST: CHERYL STRICKLAND, CLERK

By: 

Clerk

Effective Date: March 21, 1997

ATTACHMENT 1.

RULES OF PROCEDURE GUIDELINES FOR DANGEROUS DOG/ DANGEROUS CAT HEARINGS

- I. Presentation of case by Division of Animal Control
 - (1) Opening statement (3 min.)
 - (2) Presentation of evidence
 - Cross examination of each witness shall be allowed after each witness testifies.
- II. Presentation of case by Owner (or Complaining Party if initial determination found no sufficient cause to classify animal dangerous)
 - (1) Opening statement (3 min.)
 - (2) Presentation of evidence
 - Cross examination of each witness shall be allowed after each witness testifies.
- III. Public Comments (from persons not acting as witnesses above)
 - (1) Public comments in favor of Dangerous Dog or Dangerous Cat classification (2 min. each)
 - (2) Public comments in opposition to Dangerous Dog or Dangerous Cat classification (2 min. each)
- IV. Division of Animal Control rebuttal to public comments (3 min.)
- V. Owner (or Complaining Party) rebuttal to public comments (3 min.)
- VI. Closing Statements
 - (1) Closing statement by Division of Animal Control (3 min.)
 - (2) Closing statement by Owner (or Complaining Party) (3 min.)
- VII. Hearing Officer questions. The Hearing Officer may call or recall witnesses to answer questions. If rebuttal of such testimony is requested, it should be allowed but may be strictly limited.

COPY OF ADVERTISEMENT

The St. Augustine Record

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared _____

Sandra D. Oliver who on oath says that she is
Accounting Clerk of the St. Augustine Record, a

daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being a _____

Notice of Hearing

in the matter of March 11, 1997 1:30pm

in the _____ Court, was published in said newspaper in the

issues of Feb 27, 1997

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 27 day of Feb, 1997,

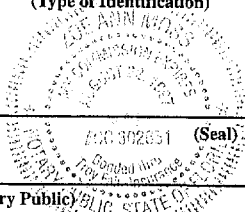
by Sandra D. Oliver who is personally
known to me or who has produced _____ as

identification. (Type of Identification)

Zoe Ann Moss
(Signature of Notary Public)

Zoe Ann Moss

(Print, Type or Stamp Commissioned Name of Notary Public)



NOTICE OF PUBLIC HEARING OF THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at its regular meeting on Tuesday, March 11, 1997 at 1:30 p.m. in the County Auditorium at the County Administrative Complex, 4020 Lewis Speedway (County Road 16A and U.S. 1 North), St. Augustine, Florida, will hold a public hearing to consider passage of the following ordinance:
AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA ADOPTING THE FOLLOWING ADMINISTRATIVE POLICIES AND PROCEDURES FOR THE INVESTIGATION, DETERMINATION AND DISPOSITION OF DANGEROUS DOG AND DANGEROUS CAT COMPLAINTS WITHIN THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY, PROVIDING FOR PENALTIES, PROVIDING AN EFFECTIVE DATE.
The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners of the St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties interested prior to the said public hearing.
If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in these proceedings should contact ADA Coordinator, at (904) 823-2501 or at the County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32095. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): 823-2501 or Florida Relay Service: 1-800-352-6771, no later than 5 days prior to the date of this hearing.
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND, CLERK
By Leland Jo Newsome, Deputy Clerk
L297 Feb. 27, 1997

DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Office of International Relations
Division of Administrative Services
Division of Corporations
Division of Cultural Affairs
Division of Elections
Division of Historical Resources
Division of Library and Information Services
Division of Licensing



FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State
DIVISION OF ELECTIONS

MEMBER OF THE FLORIDA CABINET
Historic Florida Keys Preservation Board
Historic Palm Beach County Preservation Board
Historic Pensacola Preservation Board
Historic St. Augustine Preservation Board
Historic Tallahassee Preservation Board
Historic Tampa/Hillsborough County
Preservation Board
Ringling Museum of Art

FILED

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March 21 1997

CHERYL STRICKLAND
CLERK OF CIRCUIT COURT
ST. JOHNS COUNTY FL

Honorable Cheryl Strickland
Clerk to Board of County Commissioners
St. Johns County
Post Office Drawer 300
St. Augustine, Florida 32085-0300

Attention: Yvonne Carter, Deputy Clerk

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter dated March 20, 1997 and certified copy each of St. Johns County Ordinance Nos. 97-11 through 97-16 inclusive, which were filed in this office on March 21, 1997.

Sincerely,

Liz Cloud, Chief
Bureau of Administrative Code

LC/mw

Ordinance Book 19 Page 157