

ORDINANCE NO. 2016-35

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO DANGEROUS DOGS; AMENDING SECTIONS 4-2, 4-12, AND 4-12.5 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING A PROCESS FOR DESIGNATION OF DANGEROUS DOGS; PROVIDING FOR CONFINEMENT OF DOGS DURING DANGEROUS DOG CLASSIFICATION INVESTIGATIONS AND HEARINGS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Section 4-2 of the Broward County Code of Ordinances is hereby amended to read as follows:

Sec. 4-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated. No attempt is made to define any words which are used in accordance with their established dictionary meaning, except when necessary to avoid misunderstandings.

...

(n) "~~Direct control~~" Direct control shall mean immediate, continuous physical control of an animal at all times, such as by means of a fence, leash, cord, or chain of sufficient strength to restrain the animal.

...

1 (aa) *Owner* shall mean any natural person, firm, association, or corporation
2 that owns, keeps, or harbors an animal. Animal shelters that keep or harbor animals on
3 a temporary basis shall not be deemed to be owners. For purposes of this chapter, the
4 knowledge and acts of agents and employees of business entities in regard to animals
5 transported, owned, employed by, or in the custody of a business entity shall be
6 deemed to be the knowledge and acts of such business entity. If the owner is a minor,
7 as defined by statute, the minor's parent(s) or legal guardian(s) shall be deemed the
8 owner for purposes of this chapter.

9 . . .

10 Section 2. Section 4-12 of the Broward County Code of Ordinances is hereby
11 amended to read as follows:

12 **Sec. 4-12. Dangerous dog classification procedures, requirements, owner**
13 **responsibilities, and penalties.**

14 (a) *Procedures to classify a dog dangerous.*

15 . . .

16 (2) *Initial Determination.* Upon completing its investigation, the Division shall
17 make an initial determination as to whether there is sufficient cause to
18 classify the dog as dangerous and, if sufficient cause is found, as to the
19 proposed provisions for maintaining the dog pursuant to (b) and (c) herein
20 ("Provisions"). If the Division determines that there is sufficient cause, the
21 Division shall provide written notification of its initial determination of
22 sufficient cause finding and proposed Provisions to the owner by certified
23 mail, return receipt requested; hand delivery by an officer evidenced by an
24

1 affidavit of delivery; or service in conformance with the provisions of
2 Chapter 48, Florida Statutes, relating to service of process.

3 (3) *Availability of Hearing to Challenge the Initial Determination.* The written
4 notification referenced in ~~Subsection~~ (2) above shall inform the owner that,
5 notwithstanding any other provisions of this chapter, if the owner wishes to
6 challenge the initial determination of sufficient cause regarding the
7 dangerous dog classification, proposed Provisions, or both, the owner
8 must file a request for a hearing with the Division within seven (7) calendar
9 days after the owner receives notice of the Division's initial determination
10 and proposed Provisions.

11 (4) *Effect of Not Timely Requesting Hearing.* If the owner fails to timely
12 request a hearing pursuant to ~~Subsection~~ (3) above regarding the
13 dangerous dog classification or proposed Provisions, the ~~dog shall be~~
14 ~~classified as dangerous~~ Division's determination as to such matter shall
15 become final. Upon a dangerous dog classification and Provisions
16 becoming final after a hearing or by operation of law pursuant to this
17 section, ~~The~~ Division shall provide a ~~written notice of this classification~~
18 final order to the owner by certified mail, return receipt requested; hand
19 delivery by an officer evidenced by an affidavit of delivery; or service in
20 conformance with the provisions of Chapter 48, Florida Statutes, relating
21 to service of process.

22 (5) *Effect of Timely Requesting Hearing.* If the owner timely requests a
23 hearing pursuant to ~~Subsection~~ (3) above, the hearing shall be held no
24 sooner than five (5) calendar days after filing the request and no later than

1 twenty-one (21) calendar days after the filing. The hearing shall be
2 conducted in accordance with Section 4-12.5. If the Hearing Officer
3 determines that the dog should be classified as dangerous, the Division
4 shall provide written notice of such classification (along with a copy of the
5 Hearing Officer's ~~decision~~ order) to the owner by certified mail, return
6 receipt requested; hand delivery by an officer evidenced by an affidavit of
7 delivery; or service in conformance with the provisions of Chapter 48,
8 Florida Statutes, relating to service of process. A ~~decision of a Hearing~~
9 ~~Officer's order~~ may be ~~reviewed by Petition for a Writ of Certiorari~~
10 appealed to the Seventeenth Judicial Circuit ~~within thirty (30) days of the~~
11 ~~date of rendition of the decision of the Hearing Officer~~ as provided by the
12 Florida Rules of Appellate Procedure.

13 (6) *Confinement of Dog Pending Investigation, Hearing, and Appeal.*

14 a. A dog that is the subject of a dangerous dog investigation because
15 of severe injury to a human being may be immediately confiscated
16 by the Division, placed in quarantine, if necessary, for the proper
17 length of time, or impounded and held. The dog may be held
18 pending the outcome of the investigation and any hearings or
19 appeals related to the dangerous dog classification or any
20 Provisions imposed pursuant to this section. If the dog is to be
21 destroyed, the dog may not be destroyed while an appeal is
22 pending. The owner is responsible for payment of all boarding
23 costs and other fees as may be required to humanely and safely
24 keep the dog pending any hearing or appeal.

1 **b.** During any investigation as to whether a dog is dangerous, and
2 until the resolution of any subsequent hearing or appeal (as
3 applicable), the owner of the dog, if allowed to maintain possession
4 of the dog, must keep the dog in a humane and safe manner in a
5 securely fenced or enclosed area from which the dog may not
6 escape (over, under, or through). The dog must be muzzled,
7 leashed, and under the control of a person capable of controlling
8 the dog whenever the dog is not within such securely fenced or
9 enclosed area to prevent it from coming into contact with any
10 person or domestic animal other than a person or domestic animal
11 in the immediate household of the owner. The owner shall provide
12 to the Division the address where the dog is kept. No dog that is
13 the subject of a dangerous dog investigation or that is to be
14 destroyed may be relocated, nor may ownership of the dog be
15 transferred, pending the outcome of an investigation or any hearing
16 or appeal related to the determination of a dangerous dog
17 classification or any proposed Provisions imposed pursuant to this
18 section.

19 Except for the prohibition on transferring ownership, the
20 requirements in ~~this paragraph (6)~~b. are inapplicable while a dog is
21 impounded by the Division.

22 **c.** Any dog that is used as a service dog for blind, hearing impaired, or
23 disabled persons that bites another animal or a human is exempt
24 from any quarantine requirement following such bite if the dog has

1 a current rabies vaccination that was administered by a licensed
2 veterinarian.

3 (7) *Timing for Compliance with Dangerous Dog Requirements.*

4 a. Except as provided in (7)b. herein, Wwithin fourteen (14) calendar
5 days after an order has been issued classifying a dog ~~has been~~
6 ~~classified~~ as dangerous under ~~Subsections~~ (4) or (5) above, or
7 within fourteen (14) calendar days after such ~~classification~~ order
8 has been upheld in any appeal (dismissal of the appeal shall be
9 deemed to uphold the classification), the owner of the dog must
10 comply with all of the Dangerous Dog Requirements referenced in
11 ~~Subsection~~ (b) below. If the owner has not demonstrated full
12 compliance with those requirements within such fourteen (14) day
13 period, the Division may confiscate and impound the dog and
14 subsequently dispose of the dog in a humane manner at the
15 owner's expense.

16 b. If a dog is classified as a dangerous dog due to an incident that
17 causes severe injury to a human being, based upon the nature and
18 circumstances of the injury and the likelihood of a future threat to
19 the public safety, health, and welfare, the dog may be destroyed in
20 an expeditious and humane manner.

21 (b) *Dangerous Dog Requirements.*

22 (1) *Registration and Licensure.* Any person who owns (or keeps, if a person
23 other than the owner) a dog that has been classified as a dangerous dog
24 within Broward County must register the dog as dangerous with the

1 Division and obtain a dangerous dog license. Any person who brings a
2 dog into Broward County that has been declared dangerous by another
3 jurisdiction, and who intends to reside in Broward County with such dog,
4 shall register the dangerous dog and obtain a dangerous dog license
5 within fourteen (14) calendar days of after establishing residency in the
6 County. Failure to timely register or license a dangerous dog and renew
7 said registration will subject an owner to citation for ~~non-compliance~~
8 noncompliance of this ordinance. The fees for registration and licenses
9 shall be as established by resolution. Financial penalties as set by
10 resolution shall be imposed if a dangerous dog is not timely registered and
11 licensed or if the registration or license is not timely renewed. The
12 Division may issue dangerous dog registrations, licenses, and license
13 renewals only to owners at least eighteen (18) years of age.

14 (2) *Conditions Precedent to Registration.* No dangerous dog may be
15 registered with the Division unless and until all of the following
16 requirements have been met:

- 17 a. The owner shall, at the owner's expense, have the dangerous dog
18 implanted with a Division-approved electronic animal identification
19 device (microchip), and sterilized, unless a licensed veterinarian
20 certifies, in writing, that spaying or neutering the dog would
21 endanger the dog's health. However, if the health condition of the
22 dog is of a temporary nature, the dog shall be spayed or neutered
23 immediately after the health condition has been corrected. The
24 owner shall provide the Division with the microchip manufacturer

and number and evidence of sterilization. The time period for
sterilization of the dog may be extended by the Division Director
upon demonstration by the owner of circumstances that prevent
sterilization of the dog within the required fourteen (14) day period.

The owner may obtain microchips from the Division, if available, at
the fee set by resolution. The microchip number will become the
dangerous dog registration number.

...

(3) Hunting. Dogs that have been classified as dangerous may not be used
for hunting purposes.

...

(h) *Impoundment, Confiscation, and ~~Disposing~~ Disposition of Dangerous
Dogs.*

...

(2) If a dog that has previously been classified as dangerous attacks or bites
a person or a domestic animal without provocation, the Division shall
immediately confiscate and impound the dog. The Division shall provide
ten (10) days' written notice to the owner to allow the owner to request a
hearing under Section 4-12.5. If the owner has not requested a hearing
prior to the expiration of ten (10) days ~~from~~ after the date the owner
receives the notice, the Division is authorized to dispose of such
dangerous dog in an expeditious and humane manner.

(3) ~~If a dog attacks and causes severe injury to or death of any human, the
dog shall be immediately confiscated by the Division, placed in quarantine,~~

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underscored type are additions.

1 if necessary, for the proper length of time, or otherwise impounded, and
2 held. The Division shall provide ten (10) days' written notice to the owner
3 to allow the owner to request a hearing under Section 4-12.5. If the owner
4 has not requested a hearing prior to the expiration of ten (10) business
5 days from the date the owner receives the notice, the Division is
6 authorized to dispose of such dangerous dog in an expeditious and
7 humane manner.

8 (4) (3) For any period of impoundment or quarantine referenced in
9 Subsections (1); or (2); or (3) above, or referenced elsewhere in this
10 chapter, the owner shall be responsible for payment of all boarding costs
11 and other fees associated therewith.

12 (5) (4) Notice under this section shall be effected by certified mail, return receipt
13 requested; hand delivery by an officer evidenced by an affidavit of
14 delivery; or service in conformance with the provisions of Chapter 48,
15 Florida Statutes, relating to service of process.

16 (6) (5) If the owner requests a hearing or files an appeal under Subsections (2) or
17 (3) above, the dog must be held by the Division, at the owner's expense,
18 and may not be disposed of while the hearing or appeal is pending. The
19 dog may be relocated to and held, at the owner's sole expense, at a
20 licensed boarding facility or veterinary clinic, if necessary, at the sole
21 discretion of the Director.

22 . . .

23 (i) Exemptions.

1 (1) Dogs that are owned, or the services of which are employed, by a law
2 enforcement agency are exempt from this section.

3 (2) Hunting dogs, when engaged in any legal hunt or training procedure, and
4 dogs, when engaged in training or exhibiting in legal sports or procedures
5 such as obedience trials, conformation shows, field trials, hunting or
6 retrieving trials, and herding trials, are exempt from this section.

7 Section 3. Section 4-12.5 of the Broward County Code of Ordinances is
8 hereby amended to read as follows:

9 **Sec. 4-12.5. Hearings.**

10 . . .

11 (b) *Burden of Proof.* The Division shall bear the burden of establishing that a
12 dog is dangerous or aggressive or that a citation is valid by clear and convincing
13 evidence. The owner shall bear the burden of establishing any factual or legal defense
14 to the classification of dangerousness or aggression or the validity of the citation by a
15 preponderance of the evidence.

16 . . .

17 (f) *Written Determinations of the Hearing Officer.*

18 (1) After conducting a hearing, the Hearing Officer shall issue a determination
19 within twenty (20) calendar days ~~of~~ after the hearing.

20 . . .

21 (g) *Obligation to Pay the Hearing Officer's Fee; Deposit.*

22 (1) For hearings regarding a classification of dangerousness or aggression,
23 the nonprevailing party shall be responsible for paying the Hearing
24 Officer's fee in full. In cases where a citation is found valid, persons

challenging the validity of the citation shall be assessed an administrative fee as established by the Commission.

- (2) When filing a written request for a hearing regarding a classification of dangerousness or aggression, the owner shall provide a deposit in the amount established by resolution as security for payment of the Hearing Officer's fee. If the owner prevails in the hearing, the deposit shall be returned in full. If the owner does not prevail, and the Hearing Officer's fee exceeds the deposit, the owner shall pay the difference within ten (10) days after written demand is made by the Division. If the owner does not prevail, and the deposit exceeds the Hearing Officer's fee, the Division shall return the excess deposit to the owner within ten (10) days after the date of the hearing.

(h) Once a hearing is scheduled, failure to appear before the Hearing Officer may, at the discretion of the Hearing Officer, result in the dismissal of the hearing with prejudice, in which case the initial classification by the Division shall stand, and the dog shall be classified as dangerous or aggressive or the citation shall be found valid.

Section 4. SEVERABILITY.

If any portion of this ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this ordinance. If any Court determines that this ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not affect the applicability hereof to any other individual, group, entity, property, or circumstance.

Section 5. INCLUSION IN CODE.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Broward County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. EFFECTIVE DATE.

This Ordinance shall become effective as provided by law.

ENACTED December 13, 2016

FILED WITH THE DEPARTMENT OF STATE December 14, 2016

EFFECTIVE December 14, 2016

Approved as to form and legal sufficiency:
Joni Armstrong Coffey, County Attorney

By /s/ Maite Azcoitia 10/24/16
Maite Azcoitia (date)
Deputy County Attorney

MA/gmb
10/24/16
Chapter 4 Dangerous Dogs Ordinance
#16-424

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