

## ORDINANCE 17-039

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; **CHAPTER 4 – ANIMALS**; AMENDING **ARTICLE I – GENERAL**; **SEC. 4-1** – DEFINITIONS, AMENDING **ARTICLE II – ANIMAL CONTROL**; **SEC. 4-22** – RESTRAINT OF ANIMALS, GENERALLY; PROVIDING FOR A SEVERABILITY CLAUSE; AND REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Chapter 4 of the Code of Ordinances of the City of Fort Pierce, Florida provides for the regulation and control of animals within the city limits; and

**WHEREAS**, on August 15, 2016, the City Commission of the City of Fort Pierce, in recognition that the keeping of dogs outdoors without proper shelter, food or water and in extreme weather conditions constitutes animal cruelty and neglect, adopted Ordinance No. 16-015 to establish regulations for the tethering of dogs; and

**WHEREAS**, periodic amendments to the Code of Ordinances are necessary to address deficiencies identified during the enforcement of the ordinance; and

**WHEREAS**, it has been shown that dogs suffering from cruelty and neglect often become aggressive, posing a threat to the health and safety of the local community; and

**NOW THEREFORE, BE IT ORDAINED** by the City Commission of the City of Fort Pierce, Florida:

**SECTION 1.** Chapter 4, Article I, Section 4-1 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read hereinafter as follows:

Sec. 4-1 Definitions.

As used in this chapter, the following terms shall have the indicated meaning.

*Animal.* Any non-speaking, live, vertebrate creature, domestic or wild.

*Animal control officer.* Any person employed or appointed by the city who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty, licensure of animals, or seizure and impoundment of animals and to issue citations as provided in this article.

*Animal shelter.* Any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

*At large.* Any animal which is off the premises of its owner or keeper and not under the restraint of its owner or keeper.

*Attack.* An event whereby an unprovoked animal lunges at, runs after or otherwise chases or approaches a person or other animal and such event either occurs in a threatening or menacing manner or causes some type of injury.

*Bird or Fowl.* Any member of the avian species, regardless of sex.

*Bite.* An actual puncture or tear of the skin inflicted by the teeth of an animal.

*Breeder.* Any person who owns, keeps, harbors, maintains, or has custody of dogs or cats that produce any litter or offspring that are offered for sale, or that produce a combined total of two or more litters during a twelve month period.

*Cat.* Any feline, regardless of sex.

*Citation.* A written notice, issued to any person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. Pursuant to F.S. § 828.27, the citation shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The ordinance violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

*Confined.* Physically preventing an animal from leaving the premises of its owner or keeper. Control. The possession, ownership, care and custody of animals.

*Controlled burial.* Burying at least two (2) feet below the surface of the ground and one hundred (100) feet from any water well.

*Cruelty.* Any act of neglect, torture or torment that causes the unjustifiable pain or suffering of an animal.

*Dangerous dog.* Any dog that according to the records of the appropriate authority:

- (1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury of a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property; or
- (3) 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 division. Dog. Any animal of the canine species, regardless of sex.

*Domestic animal.* Dogs, cats, or other animals that are kept primarily as pets for pleasure rather than utility and that do not require a special permit by the Florida Fish and Wildlife Conservation Commission.

*Exposed to rabies.* A person, dog, cat or other animal that has been bitten by, or been exposed to, any animal known to have been infected with rabies.

*Extreme weather.* for the purposes of this chapter shall include but not be limited to the following conditions:

- (1) Hurricane;
- (2) Tropical storm;
- (3) Above 85 degrees Fahrenheit with a heat index of 100 degrees heat index; or
- (4) Below 40 degrees Fahrenheit with a 35 degrees wind chill factor.

In determining whether extreme weather conditions exist, an animal control officer shall consider extenuating circumstances that provide for the safety of the animal through other means.

*Feral.* Any dog or cat exiting in a wild or untamed state, or any dog or cat that has returned to an untamed state from domestication.

*Harbor.* The act of keeping and caring for an animal or providing premises to which the animal returns for food, shelter, or care for five consecutive days. This shall not include those circumstances wherein an individual temporarily captures or holds a stray animal and immediately returns the animal to its owner or an animal control officer.

*Hunt or hunting.* To follow, search, or pursue any animal or the use of structures or tree stands for the purpose of capturing or killing either for food or in sport, or the use of any animal or hunting falcon for this purpose.

*Impoundment.* The taking of or picking up of and confinement of an animal by an officer under the provisions of this article.

*Leash or lead.* A cord, rope, chain or similar device which holds an animal under restraint and is not more than six (6) feet in length.

*Livestock.* Horses, mules, donkeys, cattle, calves, sheep, goats, pigs, hogs or any other grazing animal.

*Microchip.* A small chip implanted under an animal's skin that transmits an identification number to an electronic scanner, which provides pet ownership data through cross reference to microchip registry.

*Officer.* Any law enforcement officer defined in, F.S. § 943.10, or any animal control officer employed by the city.

*Ordinance.* Any ordinance relating to the care, custody, control of or cruelty to animals enacted by the city, the violation of which is a civil infraction.

*Owner.* Any person, partnership, corporation or entity possessing, owning, keeping, caring for, or harboring one or more animals including any custodian or other person in charge of an animal.

*Proper enclosure of a dangerous dog.* 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.

*Public nuisance.*

- (1) Any animal which:
  - a. Attacks passersby or passing vehicles without provocation;
  - b. Attacks other animals;
  - c. Is repeatedly at large and not under restraint;

- d. Trespasses on school grounds;
  - e. Damages private or public property;
  - f. Repetitively barks, whines, howls, chirps, caws, or whistles for a period of five (5) minutes or more so as to disturb adjacent residents; or
  - g. Causes an annoyance in the neighborhood by acts such as overturning garbage cans, defecating, digging holes on other than its owner's property, or such other acts as are generally regarded to create an annoyance.
- (2) Any activity, such as, but not limited to, the feeding of wild animals or fowl, which:
- a. Causes the fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to those in close proximity to the premises where the animals or fowl congregate; or
  - b. Causes a sanitary nuisance as defined in F.S. § 386.01.
- (3) The keeping of any wild animal in violation of the provisions of F.S. Ch. 372 and regulations promulgated by the Florida Game and Fresh Water Fish Commission.

*Quarantine.* A strict confinement, isolation and observation imposed on animal(s) suspected of having rabies or any other infectious zoonotic disease, or premises or other defined geographic areas, to prevent the spread of disease or pests.

*Responsible Person.* A responsible person is an individual who is at least fifteen (15) years of age or older who may provide temporary supervision or care for an animal as permitted by the owner of the animal. A responsible person as described herein may be the owner, or may be a person who is not the owner but has been permitted by the owner to provide temporary supervision or care.

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

*Sterilized.* Rendered permanently incapable of reproduction.

*Tease.* To intentionally disturb, provoke, interfere with, or annoy any animal.

*Tether.* To tie or otherwise attach an animal to a stake, pole, tree, or other stationary object without providing direct control and supervision of the animal.

*Under restraint.* Any animal confined within the premises of its owner or keeper, or under immediate, continuous physical control, secured by a leash or lead.

*Unprovoked.* The victim what has been conducting himself or herself peacefully and lawfully has been bitten or changed in a menacing fashion or attacked by an animal.

*Unsterilized.* Any non-spayed or non-neutered animal.

*Vicious animal.* Any fierce or dangerous animal that constitutes a physical threat to human beings or other animals, or any animal for which the animal control officer has documentation to establish that the animal has bitten any person or other animal on two (2) separate occasions without provocation within a period of one year.

**SECTION 2.** Chapter 4, Article II, Section 4-22 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read hereinafter as follows:

Sec. 4-22. - Restraint of animals; generally.

- (a) Animals shall not be allowed outside the confines of their own homes without proper restraint except as provided in this section.
  - (1) Dogs, cats and small domestic animals shall not be kept outside in crates, whether metal, wood, plastic or other material.
  - (2) Dogs, cats and small domestic animals may be kept outside in a fenced enclosure if the enclosure contains a shelter which meets the following requirements:
    - (a) Is weatherproof and made of durable materials so as to provides adequate protection from the sun, wind and rain;
    - (b) Provides a solid floor. Wire, grid or slat floors of structures that permit the animal's feet to pass through openings, or sag under the animal's weight, or that otherwise do not protect the animal's feet or toes from injury are prohibited;
    - (c) Provides a solid roof;
    - (d) Contains clean and dry bedding material;
    - (e) Elevated a minimum of six inches from the ground and be free standing of water;
    - (f) Provides sufficient space for each animal to comfortably stand up, sit down, lie down and turn around in the shelter. If the shelter is used for more than one animal at the same time, it must provide enough space for each animal to comfortably stand up, sit down, lie down, and turn around simultaneously; and
    - (g) Provides ingress and egress for the animal to enter and exit the shelter at all times.
    - (h) Be kept in a clean and sanitary condition free from accumulated waste and debris.
  - (3) Any animal left unattended in an outdoor fenced enclosure shall be provided a minimum open space, excluding the shelter(s) within the enclosure, based upon the dog's size as set forth below:
    - (a) Twenty pounds or less (small): Thirty-two square feet.
    - (b) Twenty-one pounds to Fifty pounds (medium): Sixty square feet.
    - (c) Over Fifty pounds (large): Eighty square feet.
    - (d) An additional Sixteen square feet is required for each additional dog.
  - (4) Sufficient food and water shall be provided at all times daily, including weekend and holidays.
  - (5) No animal shall be tethered unless all of the following provisions are met:
    - (a) ~~The animal must be in view of the person responsible for the animal at all times while tethered.~~ A responsible person must be outside and within view of the animal at all times while tethered.
    - (b) Animals younger than six months old, older than seven years, or ill shall not be tethered.
    - (c) The length and weight of the tether shall be appropriate for the animal breed and shall be a minimum of ten feet long or four times the length of the animal (measured from tip of nose to base of tail), whichever is greater.

- (d) The tether must have swivels at both ends of the rope, chain or similar restraint for holding an animal in place, allowing a short radius in which it can move about and not become tangled.
  - (e) Prong, choke or chain collars are prohibited in the use of tethering animal.
  - (f) Area which the animal may reach while tethered shall be free of entanglements.
  - (g) The length and location of the tether must not allow the animal to reach a fence or neighboring property.
  - (h) Collar weight shall be appropriate for the animal as determined by a reasonable person.
  - (i) A trolley system is permitted.
  - (j) An animal may not be tethered in extreme weather, including but not limited to hurricanes, tropical storms or tornados.
  - (k) The animal shall have access to a water, shade and a dry and raised area at all times.
- (6) Any enclosed area where a dog is confined shall be kept free of objects that may injure the dog and shall be cleaned regularly to remove feces.
- (7) Dogs on residentially zoned property shall not be maintained outdoors during periods of extreme weather.
- (b) It shall be unlawful for any operator of a motor vehicle to allow an animal to ride in any unenclosed section of the vehicle without enclosing the animal in a cage that is secured to the vehicle or securing the animal with a restraint device that will not permit the animal to reach the outside perimeter of the vehicle.
- (c) A violation of this section shall constitute a Class **A B** civil infraction, punishable as provided within this chapter.

**SECTION 3.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 4.** All Ordinances or parts of Ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

**SECTION 5.** This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM  
& CORRECTNESS:

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James M. Messer  
City Attorney

STATE OF FLORIDA )  
ST. LUCIE COUNTY )SS

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 17-039 was duly advertised by title only in the St. Lucie News Tribune on December 8, 2017; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on December 18, 2017; and was duly introduced, read by title only, and passed on second and final reading on January 2, 2018, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 2<sup>nd</sup> day of January, 2018.

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Linda Hudson,  
Mayor Commissioner

ATTEST:

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Linda W. Cox  
City Clerk

(CITY SEAL)