

ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

**ORDINANCE NO. 2018-\_\_**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 72 OF THE ALACHUA COUNTY CODE OF ORDINANCES, ENTITLED "ANIMALS"; AMENDING SEC. 72.08 – ENFORCEMENT PROCEDURES; AMENDING SECTION 72.14 – PROCEDURE TO CLASSIFY A DOG AS AGGRESSIVE OR DANGEROUS; AMENDING SEC. 72.15 – HEARING PROCEDURE; AMENDING SECTION 24.16 – APPLICABLE CODES AND ORDINANCES; PROVIDING FOR REPEALING CLAUSE; PROVIDING FOR MODIFICATION AT PUBLIC HEARING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Alachua County Board of County Commissioners has broad authority to enact ordinances and prescribe penalties for violations of those ordinances; and

**WHEREAS**, Florida law anticipates local ordinances and restrictions on the ownership and treatment of animals; and

**WHEREAS**, the Alachua County Board of County Commissioners recognizes that the health, safety, and welfare of its citizens will be better served by a comprehensive and progressive animal control ordinance; and,

**WHEREAS**, the County currently regulates animals under the provisions of Chapter 72 of the Alachua County Code of Ordinances; and

**WHEREAS**, the County now desires to amend the provisions of Chapter 72 of the Alachua County Code of ordinances to update the standards and processes within the Code.

**NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

SECTION 1. Chapter 72, entitled "Animals", of the Alachua County Code of Ordinances is hereby amended as follows:

1 **Sec. 72.08. - Enforcement procedures.**

2 (a) When an enforcement officer has probable cause to believe that a person has violated a provision of  
3 this chapter, the enforcement officer may issue a citation to the person. The citation shall contain:

- 4 (1) The date and time of issuance;  
5 (2) The name and address of the person;  
6 (3) The date and time the violation was committed;  
7 (4) The facts constituting probable cause;  
8 (5) The section of the chapter that was violated;  
9 (6) The name and authority of the officer;  
10 (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or  
11 to appear in court as may be required;  
12 (8) The applicable civil penalty if the person elects to contest the citation;  
13 (9) The applicable civil penalty if the person elects not to contest the citation;  
14 (10) A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed,  
15 or fails to appear in court to contest the citation, he or she shall be deemed to have waived his or  
16 her right to contest the citation and that, in such case, judgment may be entered against the person  
17 for an amount up to the maximum civil penalty; and  
18 (11) A conspicuous statement that if the person is required to appear in court, that an option to pay a  
19 fine in lieu of appearing in court does not exist.

20 (b) An enforcement officer may, but shall not be required to, issue a written warning prior to the issuance  
21 of a citation for a violation of this chapter. Failure to comply with the provisions of a written warning  
22 may result in issuance of a citation or impoundment of the animal, or both.

23 (c) For purposes of compounding fines and determining the class of the citation issued, violations of  
24 equivalent, or substantially similar, municipal code within Alachua County shall count as a violation  
25 of this Chapter and may subject the violator to additional compounded fines and a mandatory court  
26 appearance for a violation of this Chapter.

27 ~~(de)~~ Pursuant to F.S. § 828.073, an enforcement officer may issue to an owner an order to provide care.

28 ~~(ed)~~ Pursuant to F.S. § 828.27(4)(b), \$5.00 of each civil penalty imposed for a violation of this chapter shall  
29 be used by the county to pay the costs of a 40-hour minimum standards training course for the  
30 enforcement officers, which course is mandated by F.S. § 828.27(4)(a)1.

31 (f) Repeated instances of violations of this Chapter adversely affect the rights, safety and welfare of the  
32 public and, therefore, constitute a public nuisance. To this end, if there are two or more citations given  
33 to the same animal owner or animal possessor for violation of any section or subsection this Chapter,  
34 or of equivalent, or substantially similar, municipal code within Alachua County, within a 12-month  
35 period, the county attorney, if there are reasonable grounds for the action, is authorized to seek an  
36 injunction in the name of the county from the appropriate court to abate the nuisance.

37  
38 **Sec. 72.14. - Procedure to classify a dog as aggressive or dangerous.**

39 (a) Animal Services shall investigate reported incidents involving any dog that may be aggressive or  
40 dangerous. Animal Services shall, if possible, interview the owner and witnesses, and attempt to obtain  
41 a sworn affidavit from any person, including any enforcement officer, desiring to have the dog  
42 classified as aggressive or dangerous.

43 (b) After the investigation, Animal Services shall make an initial determination as to whether there is  
44 sufficient cause to classify a dog as aggressive or dangerous. If Animal Services does find sufficient  
45 cause, Animal Services shall provide to the owner of the dog written notification of the sufficient cause

1 finding. Such notification shall be provided by certified or registered mail, certified hand delivery, or  
2 in accordance with F.S. ch. 48.

3 (c) If Animal Services finds sufficient cause to classify a dog as aggressive or dangerous, the owner may  
4 request a hearing, as provided in section 72.15 of this Code, before a final determination is made.

5 (d) Animal Services shall not declare a dog dangerous if the threat, injury, or damage was sustained by a  
6 person who, at the time, was unlawfully on the property or, while lawfully on the property, was  
7 tormenting, abusing, or assaulting the dog, its owner, or a family member. Animal Services shall not  
8 declare a dog aggressive or dangerous if the dog was protecting or defending a human being from an  
9 unjustified attack or assault and the protected or defended human being was within the immediate  
10 vicinity of the dog.

11 (e) Animal Services shall impound ~~A~~any dog that is the subject of an investigation under this section ~~may~~  
12 ~~be impounded by Animal Services~~ until the conclusion of the investigation, unless the Animal Services  
13 officer makes a written determination. To provide for public safety, Animal Services may impound  
14 the dog during the investigation if it is determined that the dog(s) ~~cannot~~ be safely confined by its  
15 owner, based upon an evaluation of the following criteria: (i) the physical layout of the area where the  
16 dog will be confined; (ii) the plan for proper confinement of the dog; (iii) the individual characteristics  
17 and behavior of the dog; and (iv) any other relevant factors. If the dog is impounded pending the  
18 outcome of the investigation, a notice shall be provided to the owner stating the basis for confinement  
19 at Animal Services; and stating that the owner may board the dog at a licensed kennel or veterinarian  
20 at the owner's expense. If the dog is not required to be impounded by Animal Services, the owner of  
21 the dog must agree in writing to the following: ~~shall~~ (i) the subject dog(s) must be humanely and safely  
22 confined ~~it~~ in a securely fenced or enclosed area pending the outcome of the investigation and any  
23 hearings related to the classification; ~~(ii) The owner of the dog will~~ shall provide ~~to~~ Animal Services  
24 with the address where the dog will be kept; ~~and (iii) The owner of thea dog(s) that is the subject of~~  
25 ~~an investigation shall~~ may not relocate or transfer ownership of the dog pending the outcome of the  
26 investigation or hearings related to the classification without approval by Animal Services. Animal  
27 Services shall impound the subject dog(s) if the owner refuses to agree to the above shelter-in-place  
28 requirements in writing. The owner may utilize the hearing provisions of this chapter to challenge any  
29 restrictions imposed under this section.

30 (f) Animal Services shall perform a prompt and thorough aggressive dog or dangerous dog investigation.  
31 If Animal Services maintains custody of the dog during the investigation, then only medical fees shall  
32 accrue.

### 34 **Sec. 72.15. - Hearing procedure.**

35 (a) On or before the following dates, an owner may file a written request for hearing with Animal Services.  
36 The County Manager shall designate an individual or the Codes Enforcement Board to act as a Hearing  
37 Officer.

38 (1) The seventh calendar day after the date of service of written notification of an initial determination  
39 of a sufficient cause finding under Section 72.14 of this Code; or

40 (2) The tenth business day after the date of service of written notification that a dog involved in a  
41 violent dog attack was confiscated under Section 72.20.

42 (b) No less than five calendar days and no more than twenty-one calendar days after the date of receipt of  
43 the written request, the County shall provide for the requested hearing.

44 (c) Hearing procedures.

45 (1) Each party shall have the following rights:

- 1 a. To be represented by counsel;
- 2 b. To compel the attendance of witnesses;
- 3 c. To examine witnesses;
- 4 d. To introduce exhibits;
- 5 e. To examine opposing witnesses on any relevant matter, even though the matter was not
- 6 covered under direct examination;
- 7 f. To impeach any witness regardless of which party first called the witness to testify.
- 8 (2) Any interested party or person may make application and, upon good cause shown, may be
- 9 allowed within the discretion of the Hearing Officer to intervene or appear in a proceeding
- 10 pending before the Hearing Officer.
- 11 (d) Subpoenas.
- 12 (1) The Hearing Officer has the power to issue subpoenas to compel the attendance of witnesses at a
- 13 hearing upon the written request of any party or upon the Hearing Officer's own motion.
- 14 (2) A subpoena may be served by any person authorized by law to serve process. Service shall be
- 15 made as provided by law.
- 16 (3) Any person subject to a subpoena may, before compliance and on timely petition, request the
- 17 Hearing Officer having jurisdiction of the dispute to invalidate the subpoena.
- 18 (4) A party may seek enforcement of a subpoena issued under the authority of this chapter by filing
- 19 a petition for enforcement in the county court. Failure to comply with an order of the court shall
- 20 result in a finding of contempt of court. However, no person shall be in contempt while a subpoena
- 21 is being challenged under subsection (d)(3).
- 22 (5) If a party willfully fails to testify when duly subpoenaed, the Hearing Officer may:
- 23 a. Order that the matters regarding which the questions were asked or any other designated
- 24 facts shall be taken to be established for the purposes of the action in accordance with the
- 25 claim of the party obtaining the order;
- 26 b. Render a judgment by default against the disobedient party.
- 27 (6) Witness fees shall be paid as provided by law.
- 28 (e) Evidence.
- 29 (1) All hearings shall be conducted, insofar as practicable, in accordance with the Florida Evidence
- 30 Code. However, the general nature of the hearing shall be conducted in an informal manner.
- 31 (2) In any hearing before the Hearing Officer, irrelevant, immaterial, or unduly repetitious evidence
- 32 shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent
- 33 persons in the conduct of their affairs shall be admissible, whether such evidence would be
- 34 admissible in a trial in the courts of Florida. Any part of the evidence may be received in written
- 35 form, and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may
- 36 be used for the purpose of supplementing or explaining other evidence, but it shall not be
- 37 sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- 38 (3) Documentary evidence may be received in the form of a copy or excerpt if the original is not
- 39 readily available. Upon request, parties shall be given an opportunity to compare the copy with
- 40 the original.
- 41 (4) A party shall be permitted to conduct cross-examination when testimony is taken or documents
- 42 are made a part of the record.
- 43 (5) The rules of privilege shall be effective to the same extent that they are now or hereafter may be
- 44 recognized in civil actions.

- 1 (6) The Hearing Officer shall work with the County to ensure that an audio and documentary record  
2 of the hearing is preserved, which record shall be public and open to inspection and transcription  
3 or copying by any person.
- 4 (f) Written determinations of the Hearing Officer.
- 5 (1) After due public hearing, the Hearing Officer shall issue a determination based upon the  
6 preponderance of the evidence. The Division shall bear the burden of establishing the  
7 dangerousness or aggressiveness of the dog, or that a violent dog attack occurred; and the owner  
8 shall bear the burden of establishing any legal defenses.
- 9 (2) All determinations of the Hearing Officer shall be in writing, signed and dated by the Hearing  
10 Officer, shall contain findings of fact and conclusions of law, and shall be served upon the owner  
11 by certified or registered mail, certified hand delivery, or service in conformance with Chapter  
12 48, Florida Statutes. If the Hearing Officer upholds the initial determination of dangerousness,  
13 the owner shall comply with the provisions of Section 72.17.5 within fourteen (14) calendar days  
14 of the Hearing Officer's determination; or in the event of any appeal of said determination to a  
15 court of competent jurisdiction, within fourteen (14) calendar days of a decision adverse to the  
16 owner. If the Hearing Officer upholds the initial determination of aggressiveness, the owner shall  
17 comply with the provisions of subsection 72.16 within fourteen (14) calendar days of the Hearing  
18 Officer's determination; or in the event of any appeal of said determination to a court of competent  
19 jurisdiction, within fourteen (14) calendar days of a decision adverse to the owner.
- 20 (3) On or before the tenth business day after the date of service of a final decision, the owner may  
21 appeal to the proper court the decision regarding any aggressive, dangerous or violent dog. The  
22 appeal shall be a review of the record, not de novo.
- 23 (g) Payment of Hearing Officer. The cost of the Hearing Officer shall be paid by the losing party. If more  
24 than one item is in dispute, and if there are mixed results, a party shall only be responsible for the cost  
25 of the Hearing Officer's time that was applied to the losing item or items, which percentage of time  
26 shall be determined by the Hearing Officer. As a condition precedent to holding the hearing authorized  
27 under this Chapter - the owner of the dog(s) must pay a deposit to Alachua County, equal to the cost  
28 of one hour of the hearing officer's in-hearing time. If the Hearing Officer issues a final order in favor  
29 of the owner of the dog(s), then the County shall refund the entire deposit to the owner of the dog(s).  
30 If the Hearing Officer issues a final order in favor of Alachua County, then the deposit is forfeited to  
31 Alachua County and will be applied to the total cost of the Hearing Officer's time.  
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34 SECTION 2. Section 24.16 entitled "Applicable codes and ordinances" is hereby amended as

35 set forth below in Exhibit A, entitled "SCHEDULE OF CODES AND ORDINANCES WITH BRIEF

36 DESCRIPTION OF SUBJECT MATTER OF VIOLATIONS AND PENALTIES FOR UNCONTESTED

37 VIOLATIONS":

38

39 ...

Code or Ordinance	Section	Section this Volume	Description	Class	Penalty
99-20	1	72.09	Obstruction of enforcement equipment	III	\$125
99-20	1	72.09	Obstruction of enforcement officer	IV	<del>200</del> <u>250</u>
99-20	1	72.10	Failure to treat animal humanely	IV	<del>200</del> <u>250</u>
99-20	1	72.11	Failure to confine animal in heat	II	75
99-20	1	72.12	Failure to physically control dog	<u>II</u>	<del>50</del> <u>250</u>
99-20	1	72.13	Failure to remove excreta	I	50
04-03	1	72.16	Failure to comply with aggressive dog requirements	V	MCA, up to 500
99-20	1	72.17	Failure to comply w/dangerous dog requirements	V	MCA, up to 500
<del>11-07</del>	<del>+</del>	<del>72.17.5</del>	<del>Failure to comply w/dangerous dog requirements</del>	<del>V</del>	<del>MCA, up to 500</del>
99-20	b	72.18	Attack by dangerous dog	V	MCA, up to 500
99-20	a	72.18	Severe injury or death by nondangerous dog	V	MCA, up to 500
99-20	c	72.18	Severe injury or death by dangerous dog	V	MCA, up to 500
99-20	1	72.19	Failure to comply with quarantine	IV	200
99-20	1	72.21	Animal creating a public nuisance	II	<del>75</del> <u>250</u>
99-20	1	72.22	Failure to vaccinate animal; failure to post sign	I	50
99-20	1	72.22	Failure to provide vaccination certificate	III	125
99-20	1	72.23	Failure to license	<u>II</u>	<del>50</del> <u>125</u>
99-20	1	72.23	Failure to have tag on animal	I	50

<a href="#">17-07</a>	<a href="#">1</a>	<a href="#">72.24.5</a>	<a href="#">Requirement for permanent pet identification</a>	<a href="#">II</a>	<a href="#">125</a>
99-20	1	72.26	Owning primary vectors of rabies	<del>III</del> IV	<del>125</del> 200
99-20	1	72.27	Keeping a stray animal	I	50
99-20	1	72.30	Failure to sterilize adopted animal	III	125
99-20	1	72.32	Failure to dispose of animal carcass	I	50
99-20	1	72.33	Failure to report injured animal	II	75
99-20	1	72.34	Animal left in motor vehicle	<del>III</del> IV	<del>125</del> 250
99-20	1	72.34	Animal not safely transported	<del>II</del> IV	<del>75</del> 200
99-20	1	72.35	Exploiting animals	IV	200
99-20	1	72.37	Failure to allow inspection	IV	200
99-20	1	72.39	Failure to comply with trapping requirements	II	75

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[Uniform Guidelines for](#) *Penalty Schedule by Classes*

Class	Penalty
Class I	\$ 50.00
Class II	75.00
Class III	125.00
Class IV	200.00
Class V	Mandatory court appearance (MCA) Up to \$500.00

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1 Second violation of the same class I or class II offense shall be double the amount shown on the penalty  
2 schedule.

3 Third and subsequent violations of the same class I or II offense shall require a mandatory court  
4 appearance.

5 Class III and class IV violations will require a civil citation on the first offense at the above designated  
6 penalty. Second and subsequent violations will require a mandatory court appearance. Class V violations  
7 will require a mandatory court appearance and will be subject to the penalties imposed by the court not to  
8 exceed \$500.00.

10 SECTION 3. Repealing Clause. All ordinances or portions thereof in conflict herewith are, to the  
11 extent of such conflict, hereby repealed.

12 SECTION 4. Modification. It is the intent of the Board of County Commissioners that the  
13 provisions of this ordinance may be modified as a result of considerations that may arise during public  
14 hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the  
15 Board and filed by the Clerk to the Board.

16 SECTION 5. Severability. If any word, phrase, clause, paragraph, section or provision of this  
17 ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
18 finding shall not affect the other provisions or applications of the ordinance which can be given effect  
19 without the invalid or unconstitutional provisions or application, and to this end the provisions of this  
20 ordinance are declared severable.

21 SECTION 6. Inclusion in the Code. It is the intent of the Board of County Commissioners of  
22 Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and  
23 be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance  
24 may be renumbered or re-lettered to accomplish such intent and that the word “ordinance” may be  
25 changed to “section”, “article”, or other appropriate designation.

26 SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the  
27 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and  
28 shall take effect upon filing with the Department of State.



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2 **DULY ADOPTED** in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2018.  
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6 **BOARD OF COUNTY COMMISSIONERS OF**  
7 **ALACHUA COUNTY, FLORIDA**  
8

9 ATTEST:

10 BY: \_\_\_\_\_  
11 Charles S. Chestnut, IV  
12 Chair, Board of County Commissioners  
13

14 \_\_\_\_\_  
15 Jesse K. Irby, II  
16 Clerk of Court  
17

18 APPROVED AS TO FORM  
19

20 \_\_\_\_\_  
21 County Attorney  
(SEAL)