

OFFICE OF THE  
COUNTY ATTORNEY  
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## MEMORANDUM

**Date:** February 9, 2010  
**To:** Colleen Greene  
County Attorney's Office  
**From:** Teresa Polaski, Deputy Clerk  
Minutes & Records Department  
**Re:** **Validated Ordinance 2010-03**

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Enclosed please find **a copy** referenced above (**Agenda Item #17D**), which was approved by the Board of County Commissioners on **Tuesday, January 26, 2010**.

If you have any questions, please call me at 252-8411.

Thank you.

Enclosures (1)



**ORDINANCE NO. 2010-03**

**ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2008-51, PERTAINING TO ANIMAL CONTROL, BY AMENDING SECTION TWO, "DEFINITIONS," SECTION SIX, "RABIES CONTROL," SECTION SEVEN, "LICENSE CERTIFICATE; TAGS, VACCINATION REQUIRED," SECTION NINE, "INHUMANE TREATMENT OF ANIMALS," AND SECTION TEN, "DANGEROUS OR VICIOUS DOGS, DEFINITIONS AND PROCEDURES," AND BY ADDING SECTION SEVENTEEN, "FERAL CATS," IN ORDER TO AMEND THE DANGEROUS DOG DECLARATION APPEALS PROCESSES, ESTABLISH REGULATIONS RELATING TO FERAL CATS AND ADD PROVISIONS REGARDING THE TETHERING OF DOGS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on September 9, 2008, the Board of County Commissioners (Board) adopted Ordinance No. 2008-51, repealing prior ordinances pertaining to animal control in order to establish revised, more stringent procedures and violations relating to dangerous dogs and also provide for an efficient method of revising fee schedules; and

**WHEREAS**, the Board desires to amend Ordinance No. 2008-51, to amend the dangerous dog declaration appeals processes, establish regulations relating to feral cats and add provisions regarding the tethering of dogs.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:**

**SECTION ONE: AMENDMENTS TO SECTION TWO OF ORDINANCE NO. 2008-51.**

Section Two of Ordinance No. 2008-51 is hereby amended as follows:

**SECTION TWO: DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aggressive animal* means any animal of fierce or dangerous propensities likely to cause physical injury or property damage or that exhibits traits of ungovernableness.

*Animal* means every living dumb creature.

*Animal ~~S~~ervices* means the Collier County Domestic Animal Services department.

*Animal services center* means any place approved as such by the Board of County Commissioners for the detention, care and/or treatment of animals in custody.

*At-large* means off the premises of the owner and not under the direct control of the owner or other competent person, on a suitable leash of dependable strength sufficient to restrain the animal.

\* \* \* \* \*

*Director of animal services* means the director of the Collier County Domestic Animal Services department, or his or her designee.

*Earnotched* means a "v" has been cut from the tip of the left ear of a cat.

*Eartipped* means the tip of the left ear of a cat has been cut in a straight line.

*Feral cat* means a cat that is free roaming and exists in a wild or untamed state.

*Feral cat caregiver* means any person who provides food, water, or shelter, or otherwise cares for (a) feral cat(s).

*Feral cat colony* means a group of cats that congregates, more or less, as a unit. Nonferal cats that congregate with a feral cat colony shall be deemed a part of it.

*Health officer* means the director of the County health department, or his designee.

\* \* \* \* \*

*Stable* means any place of business or premises used to maintain four-legged grazing animals for the purpose of either a riding stable, pony rides, livery stable, animal rental and/or animal boarding facilities, for a fee.

*Tether* means to restrain a dog by tying the dog to any object or structure, including without limitation a house, tree, fence, post, garage, or shed, by any means, including without limitation a chain, rope, cord, leash, or running line. Tethering shall not include using a leash to walk a dog.

*Torture, torment or cruelty* means any act, omission or negligence causing or allowing to continue unnecessary or unjustifiable pain or suffering when there is remedy or relief reasonably available.

*Trap-neuter-return* means the practice of humanely trapping feral cats; ensuring they are spayed or neutered, vaccinated, and eartipped or eartipped; and returning them to their feral cat colonies.

*Trap-neuter-return program* means the practice of trap-neuter-return and other best management practices intended to diminish the population of feral cats within the community.

*Vaccination* means administering to any animal, pursuant to a certificate of vaccination issued by a licensed state veterinarian, an anti-rabies vaccine approved by the state department of health and rehabilitative services.

*Wild animal* means any living non-domesticated species defined as wildlife by the wildlife code of the state fish and wildlife conservation commission, and any free-roaming cat or dog.

## **SECTION TWO: AMENDMENTS TO SECTION SIX OF ORDINANCE NO. 2008-51.**

Section Six of Ordinance No. 2008-51 is hereby amended as follows:

### **SECTION SIX: RABIES CONTROL.**

1. The director of animal services shall give first priority to requests of the health officer to investigate cases involving rabies or the suspicion of rabies.

2. Any person having knowledge of an animal biting, scratching or otherwise wounding a person by contact shall immediately report the facts to the County health department or to the department of animal services, including:

- A. The victim's name, approximate age and address;
- B. The animal owner's name and address;
- C. The animal's description and location; and
- D. Names and description of other persons and animals involved.

3. An animal known to have bitten or scratched a human or an animal suspected of having rabies shall, if possible, be captured or taken into custody by the director of animal services, police, sheriff's office, or health officer.

- A. Unvaccinated dogs and cats will be impounded and quarantined for ten days of clinical observation in the animal services center or at a local veterinarian clinic authorized by the health officer or director of animal services. Impoundment and boarding fees will be paid by the owner of the animal.

Words Underlined are added; Words ~~Struck Through~~ are deleted.

Other animals will be impounded and quarantined by direction of the health officer or director of animal services.

B. Dogs or cats that have a current vaccination may be confined under quarantine by fence or suitable enclosure on the premises of the owner, or at some other location approved by the health officer or the director of animal services.

C. Earnotched or eartipped feral cats will be impounded and quarantined for ten days of clinical observation in the animal services center if possible. If the cat cannot be trapped for impoundment, it will be observed daily by its feral cat caregiver. Feral cats that are not earnotched or eartipped will be deemed to be unvaccinated.

4. Wild animals that are susceptible of carrying rabies, that are being held in captivity, or possessed as pets by private persons who are properly licensed, but which animals have not been vaccinated with a proven anti-rabies vaccine that has been developed for that specified species of animal and which vaccine is recognized as an effective vaccine by the health officer, or for which no known rabies incubation period has been established by research recognized by the health officer, which animal has either bitten a human being or which animal is suspected of having rabies, shall be impounded and quarantined by the director of animal services upon the recommendation of the health officer. The animal will be held in quarantine for a specified period of time as directed by the health officer.

\* \* \* \* \*

### SECTION THREE: **AMENDMENTS TO SECTION SEVEN OF ORDINANCE NO. 2008-51.**

Section Seven of Ordinance No. 2008-51 is hereby amended as follows:

#### SECTION SEVEN: **LICENSE CERTIFICATE; TAGS, VACCINATION REQUIRED.**

1. Any owner of a dog or cat shall obtain a County license for each such animal when the animal is four months old or older.

A. The license will be issued for a period of one year and is required to be renewed annually thereafter and must remain current at all times.

B. The record corresponding to the license shall contain the name of the owner, address, breed, sex and color of each animal, or other descriptive data.

C. A tag designating the license number shall be issued.

Words Underlined are added; Words ~~Struck Through~~ are deleted.

- D. The tag shall be affixed to the animal's collar or harness at all times, except when the animal is confined, securely fenced or participating in an organized match, show, trial, or obedience training.
- E. The license issued under this section shall not be transferable from animal to animal or from owner to owner.
- F. Each license and tag must be obtained from persons designated by the director of animal services. License forms provided by the director of animal services for the registration and licensing of dogs and cats shall be completed and be submitted to the director of animal services.
- G. Veterinarians are authorized to sell dog licenses and cat licenses and are authorized to charge a surcharge for this service. The amount of the authorized surcharge is established and revised by resolutions adopted by the Board of County Commissioners. Forms and license tags will be furnished by the County to the veterinarian.

2. Any owner of a dog, cat, or ferret shall have such animal vaccinated annually for rabies when the animal is four months old or older. The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. Every owner shall provide proof of vaccination upon demand of the health officer or his designee or any other person authorized to enforce this article. Animal services may deny issuance of a license to any animal without a current rabies vaccination. No vaccination is required if a licensed veterinarian certifies in writing that the vaccination would endanger the animal's health.

3. Cats belonging to feral cat colonies that are registered with an agency contracted with Collier County to manage a trap-neuter-return program shall be exempt from the requirement to license.

~~3~~ 4. License fees are established and revised by resolutions of the Board of County Commissioners. A portion of each non-neutered/non-spayed animal license fee will be deposited in the County neuter/spay trust fund for the purpose of funding the County's neuter/spay program. The amount to be deposited is established and revised by resolutions adopted by the Board of County Commissioners.

#### **SECTION FOUR: AMENDMENTS TO SECTION NINE OF ORDINANCE NO. 2008-51.**

Section Nine of Ordinance No. 2008-51 is hereby amended as follows:

#### **SECTION NINE: INHUMANE TREATMENT OF ANIMALS.**

1. It shall be unlawful for any person to:
  - A. Cause, encourage, allow, permit or suffer any dog, cock, or other animal to participate in, or be trained to fight other dogs or cocks, or to maim, mutilate or disfigure an animal of the same or another species, including as an object (lure) to tempt or entice another animal to race, usually on a track.
  - B. Maim or disfigure any dog, cat, or other animal.
  - C. Administer poison or expose any poisonous substance with reason to know that the same may kill an animal other than the common rat or mouse.
  - D. Own or possess a dog that is known to habitually attack, injure, or kill other animals.
  - E. Torment any animal or deprive any animal of shelter or sufficient quantity of good and wholesome food and water.
  - F. Keep any animal in an enclosure without wholesome exercise and change of air.
  - G. Abandon to die any animal that is maimed, sick, deformed or diseased.
  - H. Beat and cause unnecessary injury and suffering to any animal.
  - I. Carry any animal upon or leave any animal in any vehicle in a cruel or inhumane manner or in any manner that threatens the health of the animal, such as by overheating, lack of sufficient fresh air, wholesome food, and/or potable water.

2. Any enclosure used as a primary means of confinement for a dog must meet the definition of proper enclosure as stated in Section Ten of this Ordinance. It shall be unlawful for a responsible party to tether a dog while outdoors, except when all of the following conditions are met. This section shall not apply to the transportation of dogs.

A. The dog is in visual range of the responsible party, and the responsible party is located outside with the dog.

B. The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather, not less than one inch in width.

C. The tether has the following properties: it is at least five times the length of the dog's body, as measured from the tip of the nose to the base of the tail; it terminates at both ends with a swivel; it does not weigh more than 1/8 of the dog's weight; and it is free of tangles.

D. The dog is tethered in such a manner as to prevent injury, strangulation, or entanglement.

E. The dog is not outside during a period of extreme weather, including without limitation extreme heat or near-freezing temperatures, thunderstorms, tornadoes, tropical storms, or hurricanes.

F. The dog has access to water, shelter, and dry ground.

G. The dog is at least six months of age. Puppies shall not be tethered.

H. The dog is not sick or injured.

I. Pulley, running line, or trolley systems are at least 15 feet in length and are less than 7 feet above the ground.

J. If there are multiple dogs, each dog is tethered separately.

23. The director of animal services shall impound any animal found to be cruelly treated as defined in this article.

34. Whoever violates any provision of this section shall forfeit his right to license an animal in the County for one year in addition to any other penalty provided by this article or otherwise by law. Any ownership of such animal without benefit of a license shall be deemed an additional violation of this article.

#### **SECTION FIVE: AMENDMENTS TO SECTION TEN OF ORDINANCE NO. 2008-51.**

Section Ten of Ordinance No. 2008-51 is hereby amended as follows:

#### **SECTION TEN: DANGEROUS OR VICIOUS DOGS, DEFINITIONS, AND PROCEDURES.**

##### **1. *Definitions.***

A. *Dangerous or vicious dog* means any dog that according to the records of the appropriate authority;

(1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;

(2) Has severely injured or killed a domestic animal while off the owner's property;



(3) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or

(4) 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 appropriate authority.

B. *Unprovoked* means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

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

D. *Investigation* is conducted by animal services. Animal services must interview the dog's owner when possible and may require a sworn affidavit from any person desiring to have a dog classified as dangerous.

E. *Proper enclosure* means that, while on the owner's property, the dog can be 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 a pen or structure shall be structurally sound, made of materials impervious to moisture, 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 injury and the elements. The square footage of a proper enclosure used as a primary means of confinement for a dog must be equal to or greater than the length of the animal from the tip of the nose to the base of the tail, doubled, then squared, and divided by 144. For example, a dog measuring 30 inches from the tip of the nose to the base of the tail will require a 25-square-foot enclosure ( $30 \times 2 = 60$ ;  $60 \times 60 = 3600$ ;  $3600 / 144 = 25$ ). The height of the enclosure shall be equal to or greater than the length of the animal from the tip of the nose to the base of the tail multiplied by 1.5.

## 2. *Procedure.*

A. If the director of animal services, or his or her designee, makes an initial determination that a dog is dangerous, based on the initial investigation, the County shall provide written notification of that determination to the owner of the dog. Notice shall be by certified mail, by certified hand delivery, by service pursuant to Chapter 48, *Florida Statutes*, or as otherwise authorized by Florida Statute. The director's initial determination shall automatically become final unless the dog's owner, within seven calendar days after receipt of the notice, files a written request for a hearing to challenge the director's initial determination. The written request must be submitted to animal services. If the dog's owner files a timely written request for a challenge hearing, the effective date of the determination shall be the date of the final decision of the Special Magistrate. ~~challenge hearing panel.~~

B. Any owner of a dog that is initially declared dangerous by the director of animal services may appeal that decision to the Code Enforcement Special Magistrate. ~~a three member appeals panel consisting of the following members: General manager of the county humane society or his or her employee designee, and any two employees in the public services department, not under the direction or control of the director of animal services, who are chosen on a case by case basis by the public services administrator.~~ This hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than 5 days after receipt of request from the owner. The hearing may only be continued by agreement of both parties.

C. If the Special Magistrate's determination is to uphold the dangerous dog classification, animal services shall provide written notification to the owner as required in subsection (A) above. The dog owner may file a written request for a hearing in county court to appeal the classification within ten (10) business days after receiving notice. This request for hearing must be filed with the county court, and a copy provided to animal services within the time provided. Any such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate.

D. If the dog is not impounded during this time, the dog must 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 dog classification. No dog that is the subject of an investigation shall be relocated or ownership transferred during this time.

E. Animal services may impound any dog under investigation if the owner is unable or unwilling to securely confine the dog during the investigation. Upon written notice from animal services, the owner must allow access to the dog for the purposes of impoundment. If the dog is impounded during this time, the owner is responsible for all costs related to impoundment unless the owner ultimately prevails and the dog is not declared dangerous.

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**SECTION SIX:        ADDITION OF SECTION SEVENTEEN TO ORDINANCE NO. 2008-51.**

SECTION SEVENTEEN:    FERAL CATS.

1. Feral cat colonies shall be permitted when registered with an agency contracted with Collier County to manage a trap-neuter-return program.
2. Feral cat colonies shall be managed in compliance with the terms and conditions of such a contract.
3. In the event animal services receives a complaint of an alleged violation of Section Eight of this Ordinance, the agency contracted with Collier County to manage a trap-neuter-return program shall be given 15 days to remedy said violation. Thereafter, all normal provisions of this Ordinance apply.
4. For the purposes of enforcement of this Ordinance, a feral cat's caregiver shall be considered its owner.

**SECTION SEVEN:    CONFLICT AND SEVERABILITY.**

In the event this article conflicts with any other ordinance of the County, or any municipality therein, or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION EIGHT:    INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION NINE: EFFECTIVE DATE.**

This Ordinance shall be effective upon filing with the Department of State.

**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Collier County, Florida this 26th day of January, 2010.

ATTEST:  
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS,  
COLLIER COUNTY, FLORIDA.

By: [Signature]  
Deputy Clerk  
Attest as to Chairman's  
signature on

By: [Signature]  
FRED W. COYLE, CHAIRMAN

Approved as to form and  
legal sufficiency:

[Signature]  
Colleen M. Greene  
Assistant County Attorney

04-DAS-01108/980

This ordinance filed with the  
Secretary of State's Office the  
3 day of Feb 2010  
and acknowledgement of that  
filing received this 9 day  
of Feb 2010  
By: [Signature]  
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

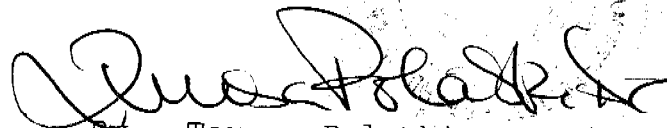
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

**ORDINANCE 2010-03**

Which was adopted by the Board of County Commissioners on the 26th day of January, 2010, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 2nd day of February, 2010.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners

A handwritten signature in dark ink, appearing to read "Teresa Polaski", is written over a faint circular official seal.

By: Teresa Polaski,  
Deputy Clerk