

ORDINANCE 2018-04

AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA AMENDING THE BUNNELL CODE OF ORDINANCES CHAPTER 10 ANIMALS TO PROVIDE FOR EXEMPTIONS AND REGULATIONS RELATING TO DOG PARKS, SPECIFY PROHIBITIONS AGAINST ANIMAL CRUELTY, PROVIDE FOR STANDARDS OF CARE AND INSPECTION OF COMMERCIAL ANIMAL ESTABLISHMENTS, PROVIDE FOR FERAL CAT TRAP-NEUTER-RELEASE ACTIVITIES, PROHIBIT TETHERING OF DOGS WITH EXCEPTIONS; REPEAL LICENSURE REQUIREMENTS FOR DOGS AND CATS, REQUIRE A CHICKEN PERMIT FOR KEEPING CHICKENS IN SPECIFIED RESIDENTIAL AREAS AND PROVIDE ASSOCIATED REGULATIONS, EXEMPT REGISTERED HUNTING AREAS FROM BIRD SANCTUARY REGULATIONS; PROVIDING FOR DEFINITIONS; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, Florida Statutes, include authority to enact regulations to protect the health, safety and welfare, and interests of the citizens of the City; and

WHEREAS, the Bunnell Code of Ordinances provides for regulations regarding animals; and

WHEREAS, said regulations are in need of revision; and

WHEREAS, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BUNNELL, FLAGLER COUNTY, FLORIDA THAT:

Section 1.

Chapter 10 – Animals of the Bunnell Code of Ordinances, is hereby amended as follows:

ARTICLE II. – IN GENERAL

...

Sec. 10-2. - Definitions.

...

Domestic animal means any animal kept for enjoyment and/or companionship rather than utility; an animal of a species that has been bred and raised to co-habitate with humans and is dependent upon people for food, shelter and survival.

...

Feral cat means any cat born either wild or domesticated who has reverted to a wild nature and whose owner is unknown, roams free, and typically resides with other cats in colonies. Feral cats include community cats.

...

~~Unlicensed dog or cat~~ means a dog or domesticated cat for which the license for the current year has not been paid, or to which the tag provided for in this chapter is not attached.

...

Sec. 10-3. - Bird sanctuary.

(a) The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.

(b) It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner, any bird or wild fowl, or to rob birds' nests or wild fowl nests; provided, however, that if starlings, pigeons or other birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance to health or property, in the opinion of the animal control officer or law enforcement officer, then such birds may be destroyed in such manner as is deemed advisable by the animal control officer.

(c) Registered hunting clubs/camps/areas and ~~Land~~ zoned agricultural, agricultural and timberlands, or conservation are is excluded from this section.

Sec. 10-4. - Cruelty.

(a) Acts deemed as cruelty to animals, as listed in F.S. §§ 828.12 and 828.13, shall be incorporated in this chapter by reference.

(b) No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care.

(c) No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.

...

Sec. 10-11. - Running at large; exemptions.

(a) It shall be unlawful to allow or permit any animals to roam or run at large within the city.

(b) This section shall not apply to designated dog parks.

(c) Animals exempt from this section are working dogs, which are hunting dogs and dogs used for working livestock with or without the following identifiers: dogs with tracking collars, dogs with owner identification.

...

Sec. 10-13. - Dogs prohibited in city parks; exemptions.

(a) It shall be unlawful to allow or permit dogs in city parks.

(b) Dogs are permitted in designated dogs parks provided that an owner may not knowingly permit a sick, dangerous, or rabid dog within, or to remain within, a dog park.

(1) All dogs within a dog park, as a condition of the use of the facility, shall be appropriately vaccinated.

(2) The owner shall retain on his/her person such proof of currency of vaccinations in the form of the official health certificate or documentation from a licensed veterinarian of current vaccinations.

(3) An owner's failure or refusal to provide an official health certificate when requested by any animal control officer or law enforcement officer shall be a violation of this provision and be subject to the penalties provided within this article.

...

Sec. 10-14. Standards of care and inspection of commercial animal establishments.

(a) Flagler Humane Society or their designee is granted authority to recommend standards of care for animal related businesses, animal related organizations, commercial breeders, non-commercial breeders and rodeos.

(b) The owner or operator of any animal related business, animal related organization, commercial breeder, non-commercial breeder or rodeo shall properly feed and care for each animal in their custody or control and otherwise meet all relevant and recommended standards of care, including but not limited to:

(1) All animals must be given adequate food, water, shelter and veterinary care;

(2) All cages, kennels, stalls or enclosures shall be cleaned daily;

(3) In shops or kennels, room temperature shall be maintained at a level that is healthful for every species of animal kept on the premises;

(4) Adequate ventilation shall be maintained;

(5) All buildings and sheds used for stabling or housing animals shall provide adequate protection from the elements;

(6) Each animal shall have sufficient space to stand up, lie down, and turn around in a natural position without touching the sides or top of the cage, stall, kennel or enclosure;

(7) Any animal that appears to be sick must be quarantined away from other animals to avoid the spread of disease and be examined by a licensed veterinarian before being placed back with other animals, adopted or sold;

(8) Each animal related business shall provide for adequate rodent and insect control.

(c) Flagler Humane Society or their designee shall have the authority to enter and inspect any

commercial animal establishment in the City of Bunnell during reasonable hours.

(d) Each animal found in violation of the recommended standards of care shall be deemed a separate offense.

(e) Bonafide commercial agricultural animal establishments which includes livestock are exempt from the provisions of this subsection.

...

ARTICLE V. – DOGS AND CATS

DIVISION 1. – GENERALLY

...

Sec. 10-179. Feral Cats and Trap-Neuter-Return (TNR) Activities.

(a) In order to manage the current feral cat population within the City of Bunnell for the purpose of providing humane care and to reduce their numbers through humane intervention tactics, the following TNR activities shall be undertaken by the Flagler County Humane Society and/or any approved Animal Welfare Organization recognized by the Flagler County Humane Society:

(1) Trap feral cats in a humane fashion.

(2) Sterilize feral cats and kittens over 12 weeks of age.

(3) Vaccinate feral cats for rabies.

(4) Provide a means of identification for feral cats through ear notch, tattoo, and/or microchip at which time the animal will be designated as a “community cat.”

(5) Release any feral cats that have been trapped and treated as stated in this section to either of the following persons:

a. The Flagler County Humane Society, or other recognized agency responsible for the care and well-being of animals and or “community cats.”

b. A person who has been recognized as providing care for a feral cat colony by complying with the following:

1. Provide food, water, medical care and when possible shelter on a regular basis, to include weekends and holidays. A community caregiver shall be someone who has been recognized as a caregiver by the Flagler County Humane Society or other agency responsible for the care and well-being of animals, and the Animal Welfare Organization responsible for providing services.

2. Maintain a record of the number of cats in the colony, and monitor the cats’ health, along with a signed agreement that they are the caregiver of record. The agreement and list will be maintained by the Flagler County Humane Society or by the Animal Welfare Organization responsible for providing services.

(b) If any caregiver recognized hereunder fails to comply with the requirements for care of feral cats, the Flagler County Humane Society representative shall serve a written warning for the first offense. Upon receipt of the written warning, the caregiver will have up to 30 days to come into compliance.

Failure to come into compliance within the 30 days' time frame provided in the warning may result in revocation of permission to care for the community cat colony, civil citation, and/or possible code enforcement action.

(c) No person shall release, abandon, or otherwise place a "community cat" on the property of another without the property owner's consent, nor shall they be released upon any public property.

Sec. 10-180. Prohibition of Tethering Dogs to Stationary Objects While Outdoors; Exceptions.

(a) No person shall tether a dog to a stationary object while outdoors, except when all of the following conditions are met:

- (1) The tether is connected to the dog by a commercially available buckle-type collar or a body harness made of nylon or leather that is of sufficient size to adequately and safely restrain the dog.
- (2) The tether is of a size and weight that is reasonably necessary to safely restrain the dog without placing excessive strain or weight on the dog.
- (3) The tether is at least five (5) times the length of the dog's body, as measured from the tip of the nose to the base of the tail.
- (4) The dog is not tethered outside in periods of extreme weather, including but not limited to extreme heat (in excess of 85 degrees) or cold (lower than 50 degrees), thunderstorms, lightning, tornadoes, tropical storms or hurricanes.
- (5) The dog has access to water, shelter, shade, and dry ground.
- (6) The dog is at least six (6) months of age.
- (7) The dog is not sick or injured.
- (8) If there are multiple dogs, each dog is tethered separately.
- (9) There shall be no tethering of any dog during the hours which occur from dusk until dawn.

...

DIVISION 2. LICENSE

Sec. 10-211. Required.

~~All dogs and domesticated cats, six weeks and older, kept, harbored or maintained by their owners in the city, should be licensed in accordance with this article.~~

Sec. 10-212. Exemptions.

~~The licensing provisions of this article shall not apply to dogs or cats brought into the city for the purpose of participating in any dog or cat show, nor to "Seeing Eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.~~

Sec. 10-213. Annual issuance; fee.

~~Dog and cat licenses shall be issued annually by the clerk of the city or his designee upon payment of a license fee established by resolution set by the city.~~

Sec. 10-214. Application.

~~The owner shall state, at the time application is made for a dog or cat license, and upon printed forms~~

~~provided for such purpose, his name and address; the name, breed, color and sex of each dog or cat kept by him; and a certificate by a licensed veterinarian showing that each dog or cat has a current vaccination against rabies.~~

~~Sec. 10-215. Term; time for application; delinquency penalty.~~

~~The city clerk or his designee shall issue a numbered license valid for one year, beginning October 1 and expiring September 30. Applications for licenses must be made prior to and for 30 days after the start of the licensing year, without penalty, but when an involuntary application is made more than 30 days after the licensing year has elapsed, the applicant shall be assessed a penalty of 50 percent of the license fee, which paid amount shall be added and collected with the regular license fee. Licensing fees shall be set by resolution of the city commission.~~

~~Sec. 10-216. Issuance; tag; recordkeeping.~~

~~Upon payment of the license fee, the city clerk shall issue to the owner a license certificate and a tag for each dog or cat so licensed. The city clerk shall keep records of all licensed animals.~~

~~Sec. 10-217. Collar required; duty to display tag.~~

~~Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. Every owner shall be prepared to present each cat license documentation to the animal control officer or law enforcement officer on request.~~

~~Sec. 10-218. Duplicate tags.~~

~~In case a dog or cat tag is lost or destroyed, a duplicate will be issued by the animal control officer, upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a fee in the amount established in section 30-91 for such duplicate.~~

~~Sec. 10-219. Tags nontransferable; refunds.~~

~~Dog and cat tags shall not be transferable from one dog or cat to another, and no refunds shall be made on any dog or cat license fee because of the death of the dog or cat or the owner's leaving the city before the expiration period.~~

...

ARTICLE VI. - LIVESTOCK AND POULTRY

...

Sec. 10-253. - Permit for livestock.

(a) It shall be unlawful to house, keep or maintain any livestock within the city, unless a permit for that livestock was validly issued by the city. Any person desiring to continue to house, upon his premises, any livestock shall file with the city clerk an application, upon a form to be furnished by the city clerk, setting forth the number of livestock to be housed or kept upon the premises, and the

distance from where such livestock will be kept to surrounding property.

(b) Except for chicken permits issued in accordance with subsection (e), no livestock ~~No such permit~~ shall be issued if the livestock will be kept within 1,000 feet of the property of another, provided that this subsection does not apply to livestock being kept on property as of the effective date of this Code; provided, however, that in the case of such grandfathered livestock, the number of livestock shall not be increased above the number of livestock on the premises as of the effective date of this Code.

(c) Each permit shall be for a period of not to exceed one year and shall be issued as prescribed by the city commission.

(d) If, during the term of the permit, the animal control officer, upon inspection, determines that the provisions of this article are being violated, he shall revoke, by written notice, such permit, and the owner or his tenants shall, within 15 days, remove from the premises or dispose of all such livestock. Livestock on land zoned agricultural, agricultural and timberlands, or conservation is excluded from this section.

(e) *Chicken Permit.* A chicken permit shall be required for chickens to be kept, harbored, raised, or maintained in chicken coops as laying hens for eggs as accessory to a residential single-family structure, ("residence"), but only subject to the following:

- (1) No more than five chickens may be kept on a lot, with roosters prohibited.
- (2) The residence shall be owner-occupied.
- (3) The chicken permit applicant must sign a statement acknowledging that the chicken permit may be revoked for any violation of this article, and may be revoked if this article is amended in the future, and the city will not be held responsible or liable for any losses to the applicant if such chicken permit is revoked.
- (4) Ducks, geese, turkeys, peafowl, or any other poultry or fowl are not considered chickens under the provisions of this section of the code.
- (5) Chickens and associated activities shall be kept for personal use only. Selling chickens, eggs, or chicken manure, or the breeding of chickens is prohibited.
- (6) The coop and enclosure must be screened from any neighbor's or public's view, using an opaque fence.
- (7) The coop and enclosure must be located in the rear yard, as defined by the city's Code of Ordinances. No coop or enclosure shall be allowed in any front or side yard.
- (8) The coop or enclosure must comply with standard setbacks.
- (9) The coop and enclosure shall provide a minimum of four square feet per chicken to permit free movement of the chickens. The coop and enclosure may not be taller than five and one-half feet, measured from the natural grade, must be at least six inches lower than the fence to screen them, and must be easily accessible for cleaning and maintenance. A building permit is required under the Florida Building Code if the coop exceeds 100 square feet. The coop shall not exceed a maximum of 200 square feet.
- (10) The coop and enclosure shall be covered and ventilated, and a fence enclosure/run is required. The coop and enclosure must be completely secured from predators, including all openings, ventilation holes, doors and gates (fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators).
- (11) All stored feed must be kept in a rodent- and predator-proof container.

(12) Chickens shall be kept within a coop and enclosure from dusk until dawn. No person shall release or set any chicken free from such coop and enclosure unless under the supervision of a person, and no person shall slaughter a chicken.

(13) Chicken coops and enclosures shall be maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.

(14) The city clerk is authorized and directed to administer the chicken permit process as follows:

(a) A chicken permit will be issued once an applicant has completed an application, met all conditions, and staff concurs with the issuance of a chicken permit.

(b) There will be a \$50.00 fee for the chicken permit and initial inspection.

(c) Once a chicken permit has been issued for a chicken that is maintained under this section, the location will be subject to an annual inspection to ensure that the area is being maintained in a manner that is safe and sanitary for the animal and does not burden the neighbors of the residence.

(d) If any condition of the chicken permit has been violated, the city may revoke the chicken permit immediately if the violation has not been remedied after seven days' notice, or if it is a repeat violation. The city is responsible for the determination of compliance with the requirements of this article. In matters of interpretation, the city manager has the authority to determine compliance with this section of the Code of Ordinances.

(e) A person aggrieved by a decision of the city clerk related to the issuance, denial or revocation of a chicken permit may appeal to the city manager. A person aggrieved by a decision of the city manager may appeal to the city commission.

(f) Persons granted a chicken permit will be encouraged to attend an appropriate training session to learn safe chicken and egg practices.

(15) No dog or cat that kills a chicken will, for that reason alone, be considered a dangerous or aggressive animal.

(16) Chickens on land zoned agricultural, agricultural and timberlands, or conservation are excluded from this requirements of this subsection.

Section 2. Implementing Administrative Actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules. All development orders shall be issued in a manner consistent with controlling law and rendered in appealable form with the City Clerk. Denials of development approvals shall be issued in accordance with controlling law to include, but not be limited to, Section 166.033, *Florida Statutes*.

Section 3. Codification.

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Code of Ordinance* and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 2, 3, 4, 5, and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 4. Conflicts.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon enactment.

First Reading: approved on this 12th day of February 2018.

Second Reading: adopted on this 26th day of February 2018.

CITY COMMISSION, City of Bunnell, Florida.

By: Catherine D. Robinson
Catherine D. Robinson, Mayor

Approved for form and content by:

Wade Vose
Wade Vose, City Attorney

Attest:

Kristen Bates
Kristen Bates, City Clerk

Seal: