

ORDINANCE 2017- 4
ANIMAL CONTROL

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AMENDING ARTICLE II – CITY OF PALM COAST ANIMAL CONTROL REGULATIONS, OF CHAPTER 8, ANIMALS, OF THE PALM COAST CODE OF ORDINANCES, AMENDING DANGEROUS DOG AND DANGEROUS ANIMAL REGULATIONS; REVISING DANGEROUS DOG CLASSIFICATION PROCEDURES; AMENDING DANGEROUS DOG AND DANGEROUS ANIMAL REQUIREMENTS; PROSCRIBING PENALTIES WHERE DANGEROUS DOG ATTACKS OR BITES WITHOUT PROVOCATION; PROSCRIBING PENALTIES WHERE DOG ATTACKS AND CAUSES DEATH OF A HUMAN; REVISING CONFINEMENT REQUIREMENTS FOR DANGEROUS ANIMALS AND ATTACK DOGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Palm Coast, Florida (the “City”) is granted the authority, under Section 2(b), Article VII, of the State Constitution, to exercise any power for municipal purposes, except where expressly prohibited by law; and

WHEREAS, the Florida Legislature enacted 2016-16, Laws of Florida, amending Part II, of Chapter 767, Florida Statutes, pertaining to dangerous dogs; and

WHEREAS, the City Council finds that the recent statutory amendments necessitate the amendment of Chapter 8, Animals, of the City Code of Ordinances, as it relates to dangerous dogs; and

WHEREAS, the City Council finds that this Ordinance is necessary to protect the health, safety, and welfare of the residents of the City; and

WHEREAS, words with double underlined type shall constitute additions to the original text and strike through shall constitute deletions to the original text, and asterisks (***) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. AMENDMENT OF SECTION 8-27. It is hereby Ordained by the City of Palm Coast, Florida: That Section 8-27 “Purpose/applicability/legislative findings,” of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby amended to read, as follows:

Sec. 8-27. Purpose/applicability/legislative findings.

(a) This article establishes, under the City's "policing powers", enforcement standards in regard to controlling the animal population in the City of Palm Coast for the health, safety and general welfare of its residents. This article also provides for the safe and humane treatment of animals. Every person who owns any animal or who owns, conducts, manages or operates any animal establishment for which a business tax receipt is required by this article shall comply with the provisions of this article.

(b) It is the intent of this article to reasonably control the ownership of animals in the City of Palm Coast and to provide reasonable opportunities for the enjoyment of animals by the residents of the City.

(c) It is the intent of this article to adopt by reference as a part of this chapter all of F.S. ch. 767, as the same may be amended by time to time. It is the intent of this article to supplement the provisions of F.S. ch. 767 and F.S. ch. 828, and to be more restrictive than the provisions set forth therein.

Except as authorized pursuant to F.S. § 767.14, in the event of any conflict between the terms of this chapter and ch. 767, ch. 767 shall control.⁽¹⁾

(d) The expression of legislative intent set forth in F.S. § 767.10, is hereby adopted.⁽²⁾

(e) It is not the intent of this article to regulate bona fide agricultural activities that are conducted in a manner that does not create a nuisance and which are conducted in accordance with sound and generally acceptable good husbandry practices.

(f) It is not the intent of this article to rezone any property or to change the list of permitted uses on property as permitted by the land use designation and zoning classification assigned to a parcel of property.

SECTION 3. AMENDMENT OF SECTION 8-28. It is hereby Ordained by the City of

Palm Coast, Florida: That Section 8-28 “Definitions,” of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby amended to read, as follows:

Sec. 8-28. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them, and where the context requires, the singular shall include the plural and vice versa:

Animal control authority means the City of Palm Coast Code Enforcement Division.

Animal control officer means any person appointed, designated, employed or contracted with the City for the purpose of enforcing this article, as designated by the City Manager or designee, and includes any law enforcement officer of the City. The term "animal control officer" also

1 Chapter 767, *Florida Statutes*, relates to damage by dogs; dangerous dogs, and Chapter 828, *Florida Statutes*, pertains to animal cruelty, sales and protection.

2 The statute provides that “[t]he Legislature finds that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of dangerous dogs.”

means "code enforcement officer" but only for the purpose of providing confidentiality and exemption from public disclosures of the home addresses and telephone numbers of animal control officers that is accorded to code enforcement officers.

~~*Dangerous/potentially dangerous animals*~~ means all animals which by reason of their wild nature, training, venomous characteristics, size or other attributes pose a special hazard to humans or other animals and includes, by way of illustration and not limitation, bears, lions, leopards, cheetahs, venomous reptiles, constricting reptiles, piranha, sharks, poisonous insects and spiders, alligators and crocodiles, attack dogs, tigers, eagles, hawks, simians, large primates and elephants. Any rabies-susceptible animal which, because of the nonavailability of a licensed vaccine, cannot be vaccinated against rabies shall also be deemed a dangerous animal. ~~This definition shall also include any dangerous dog or other animal which has been designated as dangerous by an animal control officer, or by the hearing officer.~~

~~*Dangerous/potentially dangerous dog*~~ means any dog that, according to animal control department records, other animal control or law enforcement authorities, or as attested to by sworn affidavit:

- ~~(1) — Has aggressively bitten, attacked or endangered or has inflicted severe injury on a human being on public or private property, including the owner's property other than in defense of the owner; or the owner's home, or the animal itself, in response to an action of the person injured or attacked;~~
- ~~(2) — Has severely injured or killed a domestic animal while off the owner's property;~~
- ~~(3) — Has been used primarily for the purpose of dog fighting or is a dog trained for dog fighting;~~
- ~~(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 animal services division.~~
- ~~(5) — Dogs used by law enforcement officials for law enforcement work are exempted from dangerous dog classification.~~

Dangerous dog means any dog that, according to animal control authority records, other animal control or law enforcement authorities:

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

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) 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.

Owner means any person, firm, corporation, or organization possessing, harboring, keeping or having control or custody of an animal or, if the animal is owned by a person under the age of 18, then that person's parent or guardian.

Proper enclosure ~~for of a dangerous/potentially dangerous~~ dog shall mean that 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, top, and flooring to prevent the dog from escaping over, under or through the structure and shall also provide adequate ventilation and protection from the elements. This area must have secure gates that are to be locked at all times when the animal is present.

Severe injury means any physical injury that results in broken bones, ~~internal trauma~~, multiple bites, ~~multiple punctures~~ or disfiguring lacerations requiring ~~surgery~~, sutures or ~~cosmetic or~~ reconstructive surgery.

Unprovoked ~~shall~~ means that the a victim who has conducted himself/herself peacefully and lawfully, ~~and has been bitten, or~~ chased in a menacing fashion, or attacked by any animal.

SECTION 4. AMENDMENT OF SECTION 8-29. It is hereby Ordained by the City of Palm Coast, Florida: That Section 8-29 "Animal control officer; powers and duties; unlawful interference," of Article II "City of Palm Coast Animal Control Regulations," of Chapter 8

“Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby amended to read, as follows:

Sec. 8-29. Animal control officer; powers and duties; unlawful interference.

(a) The City Manager, or designee, shall have supervision of the performance of the duties of the City's animal control officers, who shall have full and complete authority to pick up, catch or procure animals as provided below. The City Manager and animal control officers may capture, seize or pick up:

- (1) Any animal at large;
- (2) Any domestic animal constituting a nuisance;
- (3) A dangerous dog ~~or potentially dangerous animal~~ not in compliance with written notification of their classification;
- (4) Any ~~animal~~ dog being considered for dangerous ~~or potentially dangerous~~ classification;
- (5) Any animal in heat, not properly confined by the owner ~~of~~ or keeper;
- (6) Any neglected, abused, cruelly treated, sick or injured animal or animal at risk of injury or death;
- (7) Any animal for the purpose of quarantine or rabies testing;
- (8) Any animal deemed to be abandoned;
- (9) Any animal released to the City by a veterinarian or a law enforcement official;
- (10) Any animal that appears to be unlicensed when required to be licensed.

(b) An animal control officer or any law enforcement officer as defined in F.S. § 943.10(1), or its successor provision(s), is hereby authorized to issue citations for a violation of this Code, when, based upon personal investigation, the officer has reasonable and probable grounds to believe that a violation of this Code has occurred; provided, however, nothing in this Code shall be construed to prohibit an animal control officer, under appropriate circumstances, to issue a warning notice to the alleged violator. However, failure to provide this notice shall not impose any civil or criminal liability upon the City, its agents or employees.

(c) Each animal control officer shall have the right to enter upon any public property or may enter private property with the consent of owner or proper warrant, or as otherwise provided by law, for the purposes of

examining or capturing any animal. Each animal control officer shall have appropriate official identification with them which identifies them as agents of the City when they enter private property on official duty.

(d) It is unlawful for any person to interfere with any animal control officer in the legal performance of his or her duties, to take or attempt to take an animal from any animal control officer or from any vehicle used by an animal control officer to transport any animal, or to take or to attempt to take any animal from the control of the City without proper authority.

SECTION 5. AMENDMENT OF SECTION 8-40. It is hereby Ordained by the City of Palm Coast, Florida: That Section 8-40 “Classification of animals as dangerous,” of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed and replaced with the following:

Sec. 8-40. Classification of dogs as dangerous.

(a) Investigation and initial sufficient cause determination.

(1) The animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.

(2) A dog that is the subject of a dangerous dog investigation because of a severe injury to a human being may be immediately confiscated, placed in quarantine, if necessary, for the proper length of time, or impounded, pending the outcome of the investigation and resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The owner shall be responsible for payment of all boarding costs or other fees as may be required to humanely and safely keep the dog pending any hearing or appeal.

(3) A dog that is the subject of a dangerous dog investigation which is not impounded pursuant to subsection (2) above must be humanely and safely confined by the owner in a securely fenced or enclosed area. The dog shall be confined in such manner pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The address at which the dog resides shall be provided to the City. During such time, the owner shall

immediately notify the City if the dog becomes loose or unconfined, bites a human being, attacks another animal, or dies.

(4) A dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If a dog is to be destroyed, the dog may not be relocated or its ownership transferred.

(5) After the investigation, the animal control authority shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous, and, if sufficient cause is found, as to the appropriate statutory penalty, either: (1) classification of the dog as dangerous subject to the applicable dangerous dog requirements including, but not limited to, secure confinement by the owner; or (2) expeditious and humane destruction of the dog if the dog caused severe injury to a human being and constitutes a likely future threat to the public safety, health, and welfare. The animal control authority shall classify any dog as a dangerous dog in the event he/she determines that the dog meets the requirements for a dangerous dog as defined in section 8-28, of this article.

(6) A dog may not be declared dangerous if:

a. The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or the owner's family member; or

b. The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(7) The animal control authority shall provide written notification of the initial sufficient cause determination and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process. The written notice of initial determination shall include the basis for declaring the dog dangerous, a description of the dog, and the responsibility of the owner to maintain and confine the dog.

(8) The owner may file a written request for a hearing regarding the dangerous dog classification, penalty, or both, within 7 calendar days after receipt of the initial determination. The written request for a hearing shall be mailed to the address provided by the animal control authority in the notice of initial determination.

(9) If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the initial determination of the animal control authority as to such matter shall become final and the animal control authority shall send the owner a final written order of determination by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process. The owner may appeal the classification, penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure, upon receipt of the final order of determination.

(10) If the dog is not held by the animal control authority, the owner must continue to confine the dog in a securely fenced or enclosed area pending resolution of any appeal. If the dog is held by the animal control authority, the dog shall remain in the custody of the animal control authority pending resolution of any appeal. The owner shall be responsible for payment of all boarding costs or other fees as may be required to humanely and safely keep the dog pending any hearing or appeal.

(11) If the animal control authority finds no sufficient cause for classifying the dog dangerous, a written notification of insufficient cause shall be provided to the owner by registered mail or certified hand delivery. If the dog is being held by the animal control authority, custody of the dog shall be returned to the owner.

(b) Destruction. If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner. A dog may not be destroyed for thirty (30) calendar days after receipt of the final order of determination by the animal control authority or hearing officer, unless the owner waives the right to appeal to the circuit court in writing. If the owner files a timely written appeal to the circuit court, the dog may not be destroyed while the appeal is pending.

(c) Procedures for dangerous dog hearing.

(1) If the owner requests a hearing, the hearing shall be held before an appointed hearing officer as soon as possible, but not later than 21 calendar days and not sooner than 5 calendar days from the date the animal control authority receives the appeal request from the owner.

(2) A notice of hearing shall be sent to the owner by registered mail, or certified hand delivery at the address included on the written request for appeal. A hearing shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received by the animal control authority at least five (5) calendar days prior to the date set for the hearing. Upon proper notice to the owner, failure of the owner to appear personally or through legal counsel at the hearing shall result in an order affirming the initial determination.

(3) All hearings shall be open to the public. At the hearing, the owner or his or her representative and any other interested persons may present any evidence relevant to a determination of whether said animal is dangerous. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern all proceedings.

(4) The hearing officer shall hear and consider the evidence presented at said hearing and make a determination as to whether or not to uphold the determination of the animal control authority regarding classification, penalty, or both, in accordance with the provisions herein and F.S. §767.12.

(5) At the conclusion of the hearing, the hearing officer shall issue findings of fact, based on evidence of record, and conclusions of law in an order affording the proper relief, said findings and relief being consistent with local and state law. The written order shall be filed with the animal control authority and the City Clerk promptly after issuance and shall be deemed entered upon the date of said filing. The animal control authority shall provide a copy of the written order to the owner or the owner's legal counsel by certified mail, return receipt requested, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process.

(6) The owner may appeal the hearing officer's written order relating to the classification, penalty, or both to the circuit court in accordance with the Florida Rules of Appellate Procedure. Each party shall be responsible for its own fees and costs associated with the appeal. If an appeal is not timely filed, the written order of the hearing officer shall become final.

(d) Final disposition of dog.

(1) Upon the issuance of a final order of determination by the animal control authority or hearing officer, or the conclusion of any

appeal proceedings affirming such order, the dog shall be disposed of in accordance with the final order.

(2) If the dog is not to be destroyed, custody of the dog shall be returned to the owner upon the owner's compliance with the requirements of Section 8-43 and payment of all boarding and other costs and fees required to humanely and safely keep the dog impounded. Custody of the dog shall not be released until the owner complies with the requirements of Section 8-43. If the owner fails to make payment of all boarding costs and fees or obtain a dangerous dog registration as required herein within 14 days of the completion of all hearings and appeals, the dog shall be considered abandoned by the owner and thereafter destroyed in an expeditious and humane manner.

(e) **Violations.** Any order, providing for an animal's release to its owner or otherwise, shall be subject to such conditions as the animal control authority or hearing officer shall impose. Violation of any condition of the order shall constitute a violation of this Code and be punishable as such. An animal control officer may immediately impound a dangerous dog if the owner fails to comply with any of the requirements of the order or any of the requirements of Section 8-43, and after written notification to the owner in accordance with Section 8-40(a)(7), the dog may be euthanized, at the owner's expense, in an expeditious and humane manner, unless the owner requests a hearing pursuant to subsection 8-40(a)(8). The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure. If the owner files a written appeal, the dog must be held and may not be destroyed while the appeal is pending.

(f) **Exemptions.**

(1) Any dog that is owned, or the service of which is employed, by a law enforcement agency, is exempt from this section.

(2) Hunting dogs are exempt from this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from this section when engaged in any legal procedures. However, such dogs at all other times in all other respects are subject to this section. Dogs that have been classified as dangerous may not be used for hunting purposes.

(3) Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human is exempt from any quarantine requirement following such bite if the dog has

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

SECTION 6. REPEAL AND REPLACEMENT OF SECTION 8-41. It is hereby

Ordained by the City of Palm Coast, Florida: That Section 8-41 “Confinement of dangerous animals/attack dogs”, of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed and replaced with the following:

Sec. 8-41 Attack or bite by dangerous dog.

Any dog previously classified as dangerous that attacks or bites a person or a domestic animal without provocation shall be immediately confiscated by an animal control officer. The dog shall be placed in quarantine, if necessary, for the proper length of time in accordance with state law, or impounded and held for 10 business days after the owner is given written notification of the impoundment and penalty in accordance with the notice provisions of Section 8-40(a)(7), and thereafter destroyed in an expeditious and humane manner. The 10-day time-period shall allow for the owner to request a hearing pursuant to Section 8-40(a)(8). The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure. If the owner files a written appeal, the dog must be held by the animal control authority, or its designee, and may not be destroyed while the appeal is pending.

SECTION 7. REPEAL AND REPLACEMENT OF SECTION 8-42. It is hereby

Ordained by the City of Palm Coast, Florida: That Section 8-42 “Disposition of dangerous animals found at large”, of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed and replaced with the following:

Sec. 8-42 Death of a human by dog.

Any dog, regardless of a previous dangerous dog classification, that attacks and causes the death of a human, shall immediately be confiscated by an animal control officer. The dog shall be placed in quarantine, if necessary,

for the proper length of time, or impounded and held for 10 business days after the owner is given written notification of the impoundment and penalty in accordance with the notice provisions of Section 8-40(a)(7), and thereafter destroyed in an expeditious and humane manner. The 10-day time-period shall allow for the owner to request a hearing pursuant to Section 8-40(a)(8). The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure. If the owner files a written appeal, the dog must be held by the animal control authority, or its designee, and may not be destroyed while the appeal is pending.

SECTION 8. REPEAL AND REPLACEMENT OF SECTION 8-43. It is hereby

Ordained by the City of Palm Coast, Florida: That Section 8-43 “Disposition of dangerous animals not found at large,” of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed and replaced with the following:

Sec. 8-43 Dangerous Dog Requirements.

(a) Registration. Within 14 days after issuance of a final order of determination by the animal control authority or hearing officer, or the conclusion of any appeal that affirms such order, or the relocation of a classified dangerous dog to the city limits, the owner of such dangerous dog shall obtain a certificate of registration for the dangerous dog prior to the dog being released to the owner’s custody. The owner shall renew the certificate annually. Certificates of registration and annual renewals may be issued only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:

- (1) A current certificate of rabies vaccination, current animal license tag, and proof of sterilization from a certified veterinarian licensed in any state;
- (2) Permanent identification, such as a tattoo on the inside thigh or electronic implantation.
- (3) A proper enclosure to confine the dangerous dog in accordance with subsection (d), and the posting of the premises with a clearly visible warning sign at all points of entry of the premises which informs both children and adults of the presence of a dangerous dog on the property;

- (4) Proof that the owner is the fee simple owner of the property upon which the proper enclosure is located; or alternatively, proof of permission from the fee simple owner of the property upon which the proper enclosure is located;
- (5) Proof that the owner has obtained insurance as required by this article.

(b) Notification. The owner of a dangerous dog shall immediately notify the animal control officer if:

- (1) The dog becomes loose or unconfined;
- (2) The dog attacks a human being or another animal;
- (3) The dog dies;
- (4) The owner moves to another address with the dangerous dog. If the owner moves to a different jurisdiction, then the owner shall notify the enforcement officer of the new jurisdiction that the dog has been classified as dangerous;
- (5) The owner intends to sell or give away the dog. Prior to the dog being sold or given away, the owner shall provide the name, address and telephone number of the proposed new owner to the animal control officer. The new owner of a dog classified as dangerous must comply with all of the requirements of this article and F.S. §§ 767.10 through 767.15, even if the dog is merely moved from one local jurisdiction to another within the state. The enforcement officer of the new jurisdiction must be notified by the owner of a dog classified as dangerous that the dog is in its jurisdiction.

(c) Insurance. In order to protect the public and to afford relief from the severe harm and injury that is likely to result from a dangerous dog attack, the owner of a dangerous dog shall obtain and maintain insurance in the amount of \$100,000 for each individual dangerous dog owned to provide liability insurance for damage to persons and property caused by the dangerous dog(s). The insurance shall be provided by an insurance company authorized to do business in the State of Florida, and the owner shall provide the animal control authority evidence of a certificate of insurance and a copy of the endorsement. Annual registration shall be denied any owner not in compliance with this section. If, at any time, the liability insurance is cancelled or lapses, the animal control authority shall have the authority to impound the dangerous dog. If the owner does not re-insure the animal within 14 days of the impoundment, ownership of the dog shall revert to the City and the dog may be euthanized in an expeditious and humane manner.

(d) Confinement of Dangerous Dogs.

- (1) All dangerous dogs that are not humanely destroyed shall be kept in a proper enclosure for a dangerous dog either (1) securely confined inside the owner's residence; or (2) in a securely enclosed locked pen or structure constructed on the owner's property according to the following specifications:
 - a. The floor shall consist of a concrete pad, no less than four feet wide by eight feet long.
 - b. The sides shall consist of chain link six feet in height.
 - c. The top shall be enclosed and provide adequate shade and protection from the elements.
 - d. The structure shall have secure sides, top and flooring to prevent the dog from escaping over, under or through the structure.
 - e. The gate shall be lockable and remain locked when the dog is penned, shall be suitable to prevent the entry or partial entry of children, and be designed to prevent the dog from escaping; provided, however, that before the release of the dog from the animal control officer's custody, the pen must be completely constructed, inspected and approved by the animal control officer. The owner shall have the sole responsibility to contact the animal control officer to arrange for the inspection.
 - f. A perimeter fence shall be installed around the dog's pen by the owner to prevent direct contact with dog.
- (2) The dog shall be kept in a locked pen or inside the owner's residence when the owner is not present on the property. If the dog is kept inside the owner's residence, all windows and doors shall be closed and maintained to ensure that the dog remains inside the residence.
- (3) The dog shall not be let outside the residence or pen unless the dog is muzzled and restrained by a substantial chain or leash and under the control of a competent person. If the dog is of a breed that cannot be muzzled, the owner can apply to the animal control officer for an exemption to this requirement. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced

- or enclosed area without a muzzle or leash if the animal remains within sight of the owner and only adult members of the owner's immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present.
- (4) The premises at which the dog is located shall be posted by the owner with a clearly visible warning sign at all entry points and all sides of the fence that informs both children and adults of the presence of a dangerous dog on the property.
 - (5) It shall be unlawful for any owner or keeper of a dangerous dog to maintain such dog upon any premises that does not have a proper enclosure in which to confine the dog.
 - (6) Once a dog has been declared dangerous and registered in accordance with this section, any animal control officer shall, at any reasonable hour, have the right to inspect the owner's premises to determine compliance with the requirements of F.S. Ch. 767, and the conditions of this section. It shall be unlawful for an owner of a dangerous dog to deny the animal control authority access to inspect the owner's premises to determine compliance as provided in this section.
 - (7) When being transported, the owner shall ensure that the dog is muzzled and safely and securely restrained within a motor vehicle. If the dog is of a breed that cannot be muzzled, the owner can apply to the animal control officer for an exemption to this requirement.

SECTION 9. REPEAL AND REPLACEMENT OF SECTION 8-44. It is hereby

Ordained by the City of Palm Coast, Florida: That Section 8-44 "Procedure for dangerous animal hearing," of Article II "City of Palm Coast Animal Control Regulations," of Chapter 8 "Animals," of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed and replaced with the following:

Sec. 8-44. Confinement and possession of dangerous animals and attack dogs.

(a) It is prohibited and unlawful for an owner of any dangerous animal to fail to confine said animal within a building, cage or other secure enclosure.

(b) It is prohibited and unlawful for the owner of any dangerous animal to take the animal from the building, cage or secure enclosure in which the animal is required to be confined unless said animal is securely leashed, tethered, chained, muzzled, anesthetized and/or otherwise restrained so as to protect persons and other animals; provided, however, that this section shall not apply to law enforcement or rescue animals actually engaged in law enforcement or rescue operations.

(c) Animals of a wild or exotic nature, classified by the appropriate governmental agencies as requiring a specific pen or enclosure, shall be caged in accordance with all applicable regulations and possess proper state licensing and/or permits. It shall be unlawful for any person to possess, maintain, or have custody or control of any wild animal, bird, freshwater organism, marine life, fur-bearing animal, or reptile without first complying with the provisions of Chapter 379, Florida Statutes, and all regulations promulgated by the Florida Fish and Wildlife Conservation Commission.

(d) Any outside enclosure housing an attack dog must be completely surrounded by an approved fence or other wall six feet in height and have an anti-climbing device. All gates and entrances thereto must be kept closed and locked by means of a secure padlock, and all fences or walls must be maintained escape-proof.

(e) It is prohibited and unlawful for an owner of an attack dog to fail to adhere to the requirements of this section.

SECTION 10. REPEAL OF SECTION 8-45. It is hereby Ordained by the City of Palm Coast, Florida: That Section 8-45 “Confinement of animals declared dangerous by the animal control officer or hearing officer,” of Article II “City of Palm Coast Animal Control Regulations,” of Chapter 8 “Animals,” of the Code of Ordinances, City of Palm Coast, Florida, is hereby repealed in its entirety.

SECTION 11. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 12. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

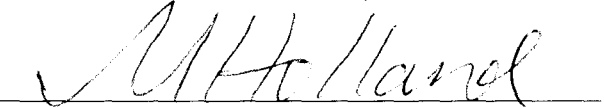
SECTION 13. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 14. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this 4th day of April 2017.

Adopted on the second reading after due public notice and hearing this 18th day of April 2017.

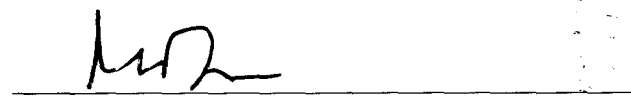
CITY OF PALM COAST, FLORIDA

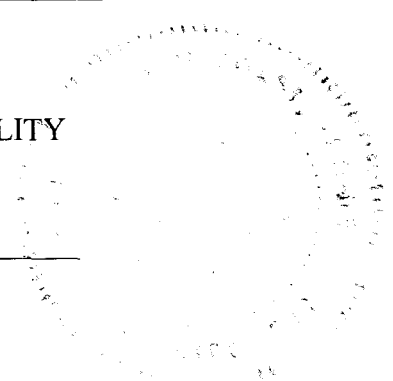

MILISSA HOLLAND, MAYOR

ATTEST:


VIRGINIA A. SMITH, CITY CLERK

APPROVED AS TO FORM AND LEGALITY


WILLIAM E. REISCHMANN, JR.
CITY ATTORNEY



**Flagler/Palm Coast
NEWS-TRIBUNE**

Published Each Wednesday and Saturday
Flagler County, Florida

**State of Florida,
County of Flagler**

Before the undersigned authority personally appeared

Jennifer Lynch

who, on oath says that she is

LEGAL COORDINATOR

of The Flagler/Palm Coast NEWS-TRIBUNE, a twice
weekly newspaper, published in Flagler County, Florida; that
the attached copy of advertisement, being a
.....

PUBLIC NOTICE

NT 2240237

in the Court,
was published in said newspaper in the issues.....

APRIL 5, 2017

Affiant further says that The Flagler/Palm Coast News-
Tribune is a newspaper published in said Flagler County,
Florida, and that the said newspaper has heretofore been
continuously published in said Flagler County, Florida, each
Wednesday and Saturday and has been entered as second-
class mail matter at the post office in Flagler Beach, in said
Flagler County, Florida, for a period of one year next
preceding the first publication of the attached copy of
advertisement; and affiant further says that he has neither
paid nor promised any person, firm or corporation any
discount, rebate, commission or refund for the purpose of
securing this advertisement for publication in the said
newspaper

.....
Jennifer Lynch

Sworn to and subscribed before me

This **5TH** of **APRIL**

A.D. 2017

.....
Deborah L. Keese

49D

**CITY OF PALM COAST
NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public
hearing will be held before the City
Council of the City of Palm Coast on
April 18, 2017 beginning at 9:00 a.m. in
the Council Chambers in the Community
Wing of City Hall located at 160 Lake
Avenue, Palm Coast, Florida 32164. The
purpose of the hearing is to hear all
interested parties and act upon the
adoption of Ordinance Number 2017-xx
entitled:

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF PALM COAST,
FLORIDA, AMENDING ARTICLE II - CITY
OF PALM COAST ANIMAL CONTROL
REGULATIONS, OF CHAPTER 8,
ANIMALS, OF THE PALM COAST CODE
OF ORDINANCES, AMENDING
DANGEROUS DOG AND DANGEROUS
ANIMAL REGULATIONS; REVISING
DANGEROUS DOG CLASSIFICATION
PROCEDURES; AMENDING
DANGEROUS DOG AND DANGEROUS
ANIMAL REQUIREMENTS;
PROSCRIBING PENALTIES WHERE
DANGEROUS DOG ATTACKS OR BITES
WITHOUT PROVOCATION;
PROSCRIBING PENALTIES WHERE DOG
ATTACKS AND CAUSES DEATH OF A
HUMAN; REVISING CONFINEMENT
REQUIREMENTS FOR DANGEROUS
ANIMALS AND ATTACK DOGS;
PROVIDING FOR SEVERABILITY;
PROVIDING FOR CODIFICATION;
PROVIDING FOR CONFLICTS; AND
PROVIDING FOR AN EFFECTIVE DATE.

This Ordinance is available for review at
Palm Coast City Hall, 160 Lake Avenue,
Palm Coast, Florida.

In accordance with the Americans with
Disabilities Act, persons needing
assistance to participate in these
proceedings should contact Virginia
Smith at 386-986-3713 at least 48 hours
prior to the meeting.

If any person decides to appeal any
decision made by Council with respect to
any matter considered at such hearing,
he or she will need a record of the
proceedings, and for such purpose, he or
she may need to ensure that a verbatim
record of the proceedings is made, which
record includes the testimony and
evidence upon which the appeal is to be
based.

