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ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 16-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 72. ANIMALS; AMENDING SEC. 72.14, PROCEDURE TO CLASSIFY A DOG AS AGGRESSIVE OR DANGEROUS; AMENDING SEC. 72.15, HEARING PROCEDURE; AMENDING SEC. 72.16, REQUIREMENTS FOR AGGRESSIVE DOGS; AMENDING 72.17.5, REQUIREMENTS FOR DOGS DECLARED DANGEROUS AFTER AUGUST 23, 2011; SEC. 72.18, CONSEQUENCES TO DOG'S OWNER AFTER A DOG ATTACK; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Alachua County has authority to regulate dogs in the County.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

SECTION 1. Section 72.14 is modified as follows:

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

(b) After the investigation, Animal Services shall make an initial determination as to whether there is sufficient cause to classify a dog as aggressive or dangerous. If Animal Services does find sufficient cause, Animal Services shall provide to the owner of the dog written notification of the sufficient cause finding. Such notification shall be provided by certified or registered mail, certified hand delivery, or in accordance with F.S. ch. 48.

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

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

10 (e) Any dog that is the subject of an investigation under this section may be
11 impounded by Animal Services until the conclusion of the investigation. To provide for public
12 safety, Animal Services may impound the dog during the investigation if it is determined that the
13 dog cannot be safely confined by its owner based upon an evaluation of the following criteria:
14 the physical layout of the area where the dog will be confined, the plan for proper confinement of
15 the dog, the individual characteristics and behavior of the dog, and any other relevant factors. If
16 the dog is impounded pending the outcome of the investigation, a notice shall be provided to the
17 owner stating the basis for confinement at Animal Services, and the owner may board the dog at
18 a licensed kennel or veterinarian at the owner's expense. If the dog is not required to be
19 impounded by Animal Services, the owner of the dog shall humanely and safely confine it in a
20 securely fenced or enclosed area pending the outcome of the investigation and any hearings
21 related to the classification. The owner of the dog shall provide to Animal Services the address
22 where the dog will be kept. The owner of a dog that is the subject of an investigation shall not
23 relocate or transfer ownership of the dog pending the outcome of the investigation or hearings

1 related to the classification without approval by Animal Services. The owner may utilize the
2 hearing provisions of this chapter to challenge any restrictions imposed under this section, except
3 that the hearing shall be provided within 7 calendar days of the request. ~~(e)~~—The owner of any
4 animal that is the subject of an investigation under this section and that is not impounded with
5 Animal Services shall confine the animal in either a proper enclosure for an aggressive dog or a
6 proper enclosure for a dangerous dog, depending upon the initial classification made by Animal
7 Services, pending the outcome of the investigation and any hearings or appeals. The owner shall
8 provide to Animal Services the address of where the animal resides. The owner of a dog that is
9 the subject of an investigation under this section shall not relocate or transfer ownership of the
10 dog pending the outcome of the investigation or any hearings or appeals. In the event that a dog
11 is ordered to be destroyed, the owner shall not relocate or transfer ownership of the dog.

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

15 **SECTION 2.** Section 72.15(a), is amended to read as follows:

16 (a) On or before the following dates, an owner may file a written request for hearing
17 with Animal Services. The County Manager shall designate an individual or the Codes
18 Enforcement Board to act as a Hearing Officer ~~to hold a hearing on or before:~~

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

22 ~~(2) The tenth calendar day after the date of service of written notification that an~~
23 ~~aggressive dog was confiscated under Section 72.16 of this Code; or~~

1 ~~(3) The tenth calendar day after the date of service of written notification that a~~
2 ~~dog declared dangerous prior to February 1, 2006 was confiscated under Section~~
3 ~~72.17 of this Code; or~~

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

6
7 **SECTION 3.**

8 Section 72.15(b), is amended to read as follows:

9 (b) No less than five calendar days and no more than 30 ~~twenty-one~~ calendar days after
10 the date of receipt of the written request, the County shall provide for the requested
11 hearing.

12 ~~Upon the owner's consent, the hearing time may be extended, but in no case may the~~
13 ~~hearing be held more than sixty calendar days after the date of receipt of the written~~
14 ~~request.~~

15 **SECTION 4.** Section 72.15(f), is amended to read as follows:

16 (f) Written determinations of the Hearing Officer.

17 (1) After due public hearing, the Hearing Officer shall issue a determination
18 based upon the preponderance of the evidence. The Division shall bear the
19 burden of establishing the dangerousness or aggressiveness of the dog, or that a
20 violent dog attack occurred; and the owner shall bear the burden of establishing
21 any legal defenses.

1 (2) All determinations of the Hearing Officer shall be in writing, signed and
2 dated by the Hearing Officer, shall contain findings of fact and conclusions of
3 law, and shall be served upon the owner by certified or registered mail, certified
4 hand delivery, or service in conformance with Chapter 48, Florida Statutes. If the
5 Hearing Officer upholds the initial determination of dangerousness, the owner
6 shall comply with the provisions of Section 72.17.5 within fourteen (14) calendar
7 days of the Hearing Officer's determination; or in the event of any appeal of said
8 determination to a court of competent jurisdiction, within fourteen (14) calendar
9 days of a decision adverse to the owner. If the Hearing Officer upholds the initial
10 determination of aggressiveness, the owner shall comply with the provisions of
11 subsection 72.16 within fourteen (14) calendar days of the Hearing Officer's
12 determination; or in the event of any appeal of said determination to a court of
13 competent jurisdiction, within fourteen (14) calendar days of a decision adverse
14 to the owner.

15 (3) On or before the tenth business day after the date of service of a final
16 decision, the owner may appeal to the proper court the decision regarding any
17 aggressive, dangerous or violent dog. The appeal shall be a review of the record,
18 not de novo.

19
20 **SECTION 5.** Section 72.16(b) Requirements for Aggressive Dogs, is deleted as follows:

21 ~~_____ (b) If an owner does not comply with the requirements of subsection (a) of~~
22 ~~this section, then Animal Services may confiscate the aggressive dog. On or before the tenth~~
23 ~~calendar day after the date the aggressive dog is confiscated, Animal Services shall give the~~
24 ~~owner written notification by certified mail, certified hand delivery, or service in accordance~~

1 with F.S. ch. 48, that the aggressive dog was confiscated and that the owner may request a
2 hearing. If no hearing is requested, then permanent custody vests with Animal Services. If the
3 owner desires to be heard, the owner may request a hearing as provided in Section 72.15. If the
4 Hearing Officer determines that the owner was in compliance at the time of the confiscation or
5 has since come into compliance with the requirements for aggressive dogs, then Animal Services
6 shall release the aggressive dog back to the owner. The owner of an aggressive dog who was not
7 in compliance at the time of the confiscation but came into compliance before the hearing must
8 pay all fees due to Animal Services, including board for the days leading up to the hearing,
9 before the dog will be returned to the owner. If the Hearing Officer determines that the owner
10 has not complied with the requirements for aggressive dogs, then permanent custody vests with
11 Animal Services on the tenth calendar day after the date of service of the ruling on the owner.
12

13 **SECTION 6.** Section 72.17.5(c) and (l), Requirements for dogs declared dangerous after
14 August 23, 2011, are deleted as follows:

15 ~~(c) — If an owner does not comply with the requirements of subsection (a) of this section, then~~
16 ~~Animal Services may confiscate the dangerous dog. On or before the tenth calendar day after the~~
17 ~~date the dangerous dog is confiscated, Animal Services shall give the owner written notification~~
18 ~~by certified mail, certified hand delivery, or service in accordance with F.S. Ch. 48, that the~~
19 ~~dangerous dog was confiscated and that the owner may request a hearing provided by 72.15. If~~
20 ~~no hearing is requested, then permanent custody vests with Animal Services. If the Hearing~~
21 ~~Officer determines that the owner was in compliance at the time of the confiscation or has since~~
22 ~~come into compliance with the requirements for dangerous dogs, then Animal Services shall~~
23 ~~release the dangerous dog back to the owner. The owner of a dangerous dog who was not in~~
24 ~~compliance at the time of the confiscation but came into compliance before the hearing must pay~~
25 ~~all fees due to Animal Services, including board for the days leading up to the hearing, before the~~
26 ~~dog will be returned to the owner. If the Hearing Officer determines that the owner has not~~
27 ~~complied with the requirements for dangerous dogs, then permanent custody vests with Animal~~
28 ~~Services ten days after the date of service of the ruling on the owner.~~

29 ~~—— (l) Animal Services may impound a dog declared dangerous pursuant to this section at~~
30 ~~any time and may hold the dog until conclusion of all appeals. During this time, Animal Services~~
31 ~~may charge boarding and other fees for the care and maintenance of the dog while the owner~~
32 ~~appeals the dangerous dog classification. The owner will be billed monthly for the boarding~~
33 ~~costs. At the conclusion of all appeals, the owner has 14 calendar days to come into compliance~~
34 ~~with the dangerous dog requirements. If the owner is not in compliance, then custody shall vest~~
35 ~~with Animal Services in accordance with subsection (c) herein.~~

36
37 **SECTION 7.** Section 72.18 (a) and (b) are modified as follows:

38 (a) If a dog that has not previously been declared aggressive or dangerous attacks and
39 causes severe injury to or death of any human and the owner of the dog had prior knowledge of

1 the dog's dangerous propensities, yet demonstrated a reckless disregard of such propensities
2 under the circumstances, then the owner is guilty of a misdemeanor of the second degree,
3 punishable as provided in F.S. § 775.082 or 775.083, unless the person attacked was engaged in
4 criminal activity at the time of the attack.

5 (b) If a dog that has previously been declared an ~~aggressive or~~ dangerous dog attacks
6 or bites a person or a companion animal without provocation, then the owner is guilty of a
7 misdemeanor of the first degree, punishable as provided in F.S. § 755.082 or 755.083, unless the
8 person attacked was engaged in criminal activity at the time of the attack.

9 **SECTION 8.** Inclusion in the Code, Scrivener's Error. It is the intention of the Board of County
10 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this
11 ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua
12 County, Florida; that the sections of this ordinance may be renumbered or relettered to
13 accomplish such intention; and that the word ordinance may be changed to section, article, or
14 other appropriate designation. The correction of typographical errors which do not affect the
15 intent of the ordinance may be authorized by the County Manager or designee without public
16 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

17 **SECTION 9.** Severability. It is the declared intent of the Board of County Commissioners of
18 Alachua County, Florida, that, if any section, subsection, sentence, clause, phrase, or provision
19 of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such
20 invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional
21 the remaining provisions of this ordinance.

1 **SECTION 10.** Repealing Clause. All ordinances or parts of ordinances in conflict herewith are,
2 to the extent of such conflict, hereby repealed.

3 **SECTION 11.** Effective Date. A certified copy of this ordinance shall be filed with the
4 Department of State by the Clerk of the Board of County Commissioners within ten (10) days
5 after enactment by the Board of County Commissioners.

6 DULY ADOPTED in regular session, this _____ day of _____, 2016.

7 BOARD OF COUNTY COMMISSIONERS OF
8 ALACHUA COUNTY, FLORIDA

9
10 ATTEST:

11 By: _____
12 Robert Hutchinson, Chair

13 _____
14 J. K. Irby, Clerk

15 APPROVED AS TO FORM

16 
17 _____
18 County Attorney

19 APPROVED AS TO CONTENT

20 
21 _____
22 Director, Animal Control
23