

ORDINANCE 2014- _____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING VOLUME I, CHAPTER 10, ARTICLE I, SECTION 10-3 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES RELATING TO DEFINITIONS; CREATING SECTION 10-27 RELATING TO FEEDING CATS AND DOGS OUTDOORS; CREATING SECTION 10-28 AUTHORIZING A COMMUNITY CAT MANAGEMENT INITIATIVE; ESTABLISHING COMMUNITY CAT MANAGEMENT REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 125, Florida Statutes, the County is authorized to establish regulations in the interest of the public health, safety and welfare by providing protection, regulation, and control of animals in the County; and

WHEREAS, the Board of County Commissioners recognizes the need for innovation in addressing the issues presented by feral, free-roaming and other community cats; and,

WHEREAS, the Board of County Commissioners finds that amending the County's ordinances relating to animal control to establish requirements for feeding cats and dogs outdoors and authorize a community management initiative better ensures the health, safety, and welfare of the public; and

WHEREAS, the Board of County Commissioners further finds that the proposed amendments serve an important public purpose;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. That Volume I, Chapter 10, Article I, Section 10-3 of the Escambia County Code of Ordinances is hereby amended to read as follows:

Sec. 10-3. Definitions.

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

Abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

Animal means every living dumb creature.

Animal control authority means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city,

county, or state. In those areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority under this chapter.

Animal control officer means any person duly employed or appointed who is authorized to investigate, on public or private property, and to issue citations as provided in this chapter. An animal control officer is not authorized to bear arms or make arrests.

Animal enclosure means any pet store, pet shop, animal shelter, kennel, animal rescue organization facility, sty, barnyard, impoundment area or other area where animals are housed and kept, whether for retail, breeding purposes or as household pets.

Animal rescue organization means a humane society or other nonprofit organization that is: dedicated to the protection of animals; duly registered with the Florida Department of State and the Florida Department of Agriculture and Consumer Services; and properly organized as a charitable organization under § 501(c)(3) of the Internal Revenue Code.

Animal shelter means the offices of the animal control officer where an impoundment area for animals is provided.

Barnyard animals means all animals of the equine, bovine or swine class and includes goats, sheep, mules, horses, hogs or cattle and domesticated poultry.

Community cat means any free-roaming cat that does not have an owner but may be cared for by one or more residents of the immediate area who is/are known or unknown; a community cat may or may not be feral. Community cats shall be distinguished from other cats by being sterilized, vaccinated against the threat of rabies, and ear tipped (preferably on the left ear). Qualified community cats are exempt from pickup and impounding as strays under section 10-5, tag requirements of section 10-8(b), licensing requirements of section 10-9, and roaming at large provisions of section 10-11(a), but may be subject to the animal nuisance provisions of section 10-11(e).

County commissioners means the board of county commissioners of the county.

Cruelty means any omission, or act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal.

Dangerous or vicious animal means any animal 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, more than once, severely injured or killed a domestic animal while off the owner's property; or
- (3) 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.

Direct control means immediate, continuous physical control of an animal at all times such as by means of a fence, leash, cord, or chain of such strength to restrain the same. In the case of specifically trained or hunting animals which immediately respond to such commands, direct control shall also include aural and/or oral control, if the controlling person is at all times clearly and fully within unobstructed sight and hearing of the animal.

Harbor(ing) means any person or entity that provides care, shelter, protection, refuge, and/or nourishment to an animal.

Hobby breeder means any person who owns or breeds purebred dogs or pedigreed cats primarily for personal recreational use. Personal recreational use may include participation in recognized conformation shows, hunting, field or obedience trials, racing, specialized hunting, working or water trials, and may include improving the physical soundness, temperament, and conformation of a given breed to standard or for the purpose of guarding or protecting the owner's property.

Impounding officer means the county administrator or his designee.

Livestock means all domestic animals kept for use on a farm or raised for sale and profit.

Livestock officer means the sheriff or his designee.

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

Pet shop means any place or premises at which the primary purpose is the keeping of pet animals, exclusive of those animals regulated and controlled by the state freshwater fish and game commission, for retail or wholesale purchase.

Proper enclosure of a dangerous dog means, 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 together with visible signage warning persons of the presence of a "bad dog." Such pen or structure shall 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 the elements.

Public road means any street, sidewalk, alley, highway, or other way open to travel by the public including rights-of-way, bridges and tunnels.

Residential area means any area in the county where two or more dwellings or houses are within 50 feet or less of each other.

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

Shelter means provision of, and unlimited access to, a three-dimensional structure having a roof, walls and a floor, which is dry, sanitary, clean and weatherproof and made of durable material. At a minimum the structure must be:

- (1) Sufficient in size to allow the animal to stand up, turn around, lie down and stretch comfortably;
- (2) Designed to protect the animal from the adverse effects of the elements and provide access to shade from direct sunlight and regress from exposure to inclement weather conditions;
- (3) Free of standing water, accumulated waste and debris;
- (4) Provide adequate ventilation; and
- (5) Provide a solid surface flooring area, resting platform, pad, mat, or similar provision of adequate size for the animal to lie upon in a comfortable manner.

Stable means those premises at which horses or equines are kept commercially for boarding, riding, breeding, training, or resale purposes.

Sterilization means dogs and cats rendered permanently incapable of reproduction by surgical alteration, implantation of a device, or other physical means, or permanently incapable of reproduction because of physiological sterility, but only where the neutered or spayed condition has been certified by a veterinarian licensed in any state.

Tether means to restrain an animal by tying the animal to any stationary object or structure, including, but not limited to, a house, tree, fence, post, garage or shed, by any means, including, but not limited to, a chain, rope, cord, leash or pulley/running line, but shall not include the use of a leash when walking an animal.

Unaltered animal means a dog or cat which has not been neutered, spayed or is otherwise not sterilized.

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.

Wild animal means any living member of the kingdom Animalia, including those born or raised in captivity, except the following:

- (1) The species *Homo sapiens* (human beings).

- (2) The species *Canis familiaris* (domestic dogs, including hybrids with wolves, coyotes, or jackals).
- (3) The species *Felis catus* (domestic cats, excluding hybrids with ocelots or margays).
- (4) The species *Equus caballus* (domestic horses).
- (5) The species *Equus asinus* (asses/donkeys).
- (6) The species *Bos taurus* (cattle).
- (7) The subspecies *Ovis ammon aries* (sheep).
- (8) The species *Capra hircus* (goats).
- (9) The subspecies *Sus scrofa domestica* (swine).
- (10) Domesticated races of the species *Gallus gallus* or *Meleagris gallopavo* (poultry).
- (11) Domesticated races of the species *Mesocricetus auratus* (golden hamsters).
- (12) Domesticated races of the subspecies *Cavia aperea procellus* (guinea pigs).
- (13) Domesticated races of rats or mice (white or albino, trained, laboratory-reared).
- (14) Domesticated races of the species *Oryctolagus cuniculus* (rabbits).
- (15) All captive-bred members of the species of the families *Psittacidae* (parrots, parakeets), *Anatidae* (ducks), *Fringillidae* (finches), and *Columbidae* (doves and pigeons).
- (16) All captive-bred members of the species *Serinius canaria* of the class *Aves* (canaries).
- (17) Domesticated races of the species *Carassius auratus* (goldfish).
- (18) Captive-bred members of the superorder *Teleostei* of the class *Osteichthyes* (common aquarium fish).

Section 2. That Volume I, Chapter 10, Article I, Section 10-27 of the Escambia County Code of Ordinances is hereby created to read as follows:

Sec. 10-27. Feeding of Cats and Dogs Outdoors.

Dogs and cats, excluding managed community cats covered in section 10-28, may be fed outdoors only if the following conditions are met:

- (1) Feeding shall take place primarily during daylight hours to minimize the risk of domestic-wildlife interactions that have increased potential of rabies exposure for the cats or dogs. Any food provided after daylight hours shall only be provided for such time as required for feeding, which time shall not exceed 30 minutes, after which all food shall be removed.
- (2) All food must be placed in a sanitary container of sufficient size for the cat and/or dog being fed. Only an amount of food that is appropriate for daily consumption may be provided.
- (3) Excess quantities of food may not be dumped on the ground or placed outdoors in bowls or other containers. Leaving open food packages outdoors is also prohibited.

- (4) Feeding outdoors must take place on the property owned by the person placing the food or be done with the consent of the property owner. Feeding on public property, road right-of-ways, parks, common land of a multifamily housing unit or any property without the consent of the owner is prohibited.

A Violation of this section is a civil infraction punishable as provided for in section 10-23.

Section 3. That Volume I, Chapter 10, Article I, Section 10-28 of the Escambia County Code of Ordinances is hereby created to read as follows:

Sec. 10-28. Community Cat Management Initiative

- (a) *Short title.* This section shall be known as the “Escambia County Community Cat Management Ordinance”.
- (b) *Legislative intent.* Escambia County hereby recognizes the need for innovation in addressing the issues presented by feral, free-roaming and other community cats. It is further recognized that there are community care givers of cats, and that properly managed community cats may be part of the solution to the continuing euthanasia of cats. The intent of this section is to address these issues by authorizing a community cat management initiative.
- (c) *Community Cat Management Requirements.* Community cats shall be managed as follows:
- (1) All managed community cats must be maintained on private property of the caregiver(s), or with permission on the private property of another landowner (including city, state, and federal public property).
 - (2) All cats that are part of community cat management programs must be sterilized, vaccinated against the threat of rabies, and ear-tipped (preferably on the left ear) for easy identification. Female cats may also be tattooed on the stomach or right ear as evidence of sterilization.
- (d) If the requirements of subsection (c) above are met, the community cat is exempt from pickup and impounding as a stray pursuant to section 10-5, tag and licensing requirements of sections 10-8(b) and 10-9, and roaming at large provisions of section 10-11(a), except as provided in subsection (f) below. Community cats may be subject to the animal nuisance provisions of section 10-11(e).
- (e) If a person is providing care for a community cat or community cat colony/group, the following conditions must be satisfied:
- (1) Food must be provided in the proper quantity for the number of cats being managed, and must be maintained in proper feeding containers.
 - (2) Water, if supplied, must be clean, potable and free from debris and algae.
 - (3) If shelter is provided, it shall be unobtrusive, safe, and of the proper size for the cat(s).

- (4) If veterinary care is needed, but is unavailable or too expensive, the caregiver must not allow a community cat to suffer.
- (f) Community Cats and/or Community Cat colonies/groups are prohibited on public bathing beaches or recreational areas on that portion of Santa Rosa Island owned by and under the jurisdiction of the county or the Santa Rosa Island Authority, and on public bathing beaches or recreational areas on any portion of any beach, public or private, on the portion of the county known as Perdido Key and more particularly described in section 10-11(b)(2).
- (g) A Violation of this section is a civil infraction punishable as provided for in section 10-23.

Section 4. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court or competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 5. Inclusion in the Code.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

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

DONE AND ENACTED THIS _____ DAY OF _____, 2014.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

ATTEST: PAM CHILDERS
Clerk to the Circuit Court

Lumon J. May, Chairman

BY: _____
Deputy Clerk
(Seal)

Enacted:
Filed with Department of State:
Effective: