

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

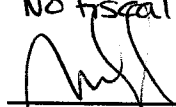
Reporting Category _____


B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

No fiscal impact.
 5/29/09
 _____ OFMB
 5/29/09

 5/29/09
 _____ Contract Development and Control

B. Legal Sufficiency:



 Assistant County Attorney

C. Other Department Review:

 Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

Background and Justification: The Palm Beach County Division of Animal Care and Control is responsible for investigating the hundreds of dog-bite incidents that take place in the County each year. Under the Ordinance, a dog is classified as dangerous if it injures one person or severely injures or kills two domestic animals and is classified as vicious if it severely injures or kills a person. In order to provide more protection to the public and their pets, this Amendment provides that a dog that severely injures or kills one domestic animal while off its owner's property will be classified as a dangerous dog.

Once a dog is classified as dangerous, the owner is required to maintain the dog in an escape-proof enclosure at all times and to put a muzzle on the dog when walked. The Ordinance currently provides for the issuance of citations to owners when they violate dangerous dog requirements; however, owners often violate such requirements. The Division of Animal Care and Control handles many cases every year involving attacks by dangerous dogs that could have been prevented if owners complied with the requirements for dangerous dogs. To address such noncompliance by owners, this Amendment allows the County to impound dangerous dogs if the owner fails to follow the dangerous dog requirements. The owner will then be given fourteen (14) days to demonstrate compliance with the Ordinance and to redeem the dog.

This Amendment also provides that dogs classified as dangerous shall not be brought to dog parks or public parks, public beaches, or commercial establishments that allow dogs.

1 **Section 1. DEFINITIONS.** Section 2 of Ordinance 98-22, as amended, is amended as
2 follows:

3 * * *

4 *Dangerous dog* shall mean any dog that according to the records of the division, meets
5 at least one of the following:

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

8 (2) Has ~~more than once~~ severely injured or killed a domestic animal while off the
9 owner's property.

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

12 (4) Has, when unprovoked and while off the owner's property, chased or approached a
13 person ~~upon the streets, sidewalks, or any public grounds~~ in a menacing fashion or
14 apparent attitude of attack, provided that such actions are attested to in a sworn
15 statement by one or more persons and dutifully investigated by the division

16 * * *

17 Domestic animal shall mean any dog, cat, horse, pony, mule, cow, goat, sheep, pig,
18 chicken, goose, duck, or rabbit that is owned by a person or any animal defined in Section
19 585.01, Florida Statutes, that is owned by a person.

20 * * *

21 Injury shall mean any physical injury that results in breaking the skin, a bite, or a
22 laceration of the skin.

23 * * *

24 Unprovoked shall mean carried out without cause or reason. For the purpose of this
25 Ordinance, an act is unprovoked if not instigated by the victim, whether the victim is a person
26 or domestic animal.

27 * * *

28
29 **Section 2. DANGEROUS DOGS AND VICIOUS DOGS.** Section 27 of Ordinance 98-22,
30 as amended, is amended as follows:

31 (a) *Classification of dogs as dangerous.*

Underlined text indicates that text has been added

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1 (1) The division shall investigate reported incidents involving any dog that may be
2 dangerous and shall, if possible, interview the owner and require a sworn affidavit from any
3 person, ~~including any animal control officer, or enforcement officer,~~ desiring to have a dog
4 classified as dangerous. In the event that any animal control officer has sufficient cause to
5 believe that a dog is dangerous and that the owner is unable or unwilling to humanely, safely
6 and securely confine the dog, the officer may impound the dog pending the investigation if
7 deemed necessary to protect the public. The owner shall be responsible for payment of all
8 boarding costs and other fees required for the division to care for the dog pending the outcome
9 of the investigation and resolution of any hearing related to dangerous dog classification. An
10 owner's refusal to surrender a dog for impoundment pending the investigation shall constitute a
11 violation of this Ordinance. At the discretion of the division, a ~~Any animal~~ dog that is the
12 subject of a dangerous dog investigation, ~~that is not impounded by the division,~~ shall may be
13 humanely and safely confined at a licensed facility approved by the division or at the residence
14 of the owner if the division is given adequate assurance by the owner that the dog can be
15 humanely, safely, and securely confined pending the investigation without posing a danger to
16 the public. If the dog remains with the owner pending the outcome of the investigation and
17 resolution of any hearings related to the dangerous dog classification, the dog shall be at all
18 times maintained in a securely fenced or enclosed area to prevent the dog from escaping or
19 coming into contact with any person or domestic animal other than a person or domestic animal
20 in the immediate household of the owner. ~~pending the outcome of the investigation and~~
21 resolution of any hearings related to the dangerous dog classification. No dog that is the subject
22 of a dangerous dog investigation may be relocated or ownership transferred pending the
23 outcome of an investigation or any hearings related to the determination of a dangerous dog
24 classification. The owner shall provide the division with ~~The~~ the address of where the animal dog
25 will be maintained pending an investigation and any related hearings. ~~resides shall be provided~~
26 to the division. ~~In the event that a dog is to be destroyed, the dog shall not be relocated or~~
27 ownership transferred.

28 (2) A dog shall not be declared dangerous if the threat, injury or damage was sustained
29 by a person who, at the time, was unlawfully on the property or, while lawfully on the property,
30 was tormenting, abusing, or assaulting the dog or its owner or a person in the immediate

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1 household of the owner. ~~a family member.~~ No dog may be declared dangerous if the dog was
2 protecting or defending a human being within the immediate vicinity of the dog from an
3 unjustified attack or assault.

4 (3) A dog that is moved into Palm Beach County and ~~which~~ that has been involved in
5 known previous animal-to-human bites or has been equivalently classified as dangerous in its
6 past jurisdiction(s), shall be subject to investigation and classification by the division. All
7 information, past history and reports from other agencies, organizations or persons may be used
8 to determine the appropriate classification.

9 (4) After its investigation, the division shall make an initial determination as to
10 whether there is sufficient cause to classify the dog as dangerous. The division shall provide
11 written notification of sufficient cause finding, to the owner, by registered mail, certified hand
12 delivery (signed receipt) or service of process. The owner shall be afforded an opportunity for a
13 hearing before a special master prior to a final determination of the classification. If the owner
14 decides to appeal the initial determination, the owner shall file a written request with the
15 division for a hearing before the special master within seven (7) calendar days from the date of
16 receipt of the notification of the sufficient cause finding and if requested, the hearing shall be
17 held as soon as possible, no sooner than five (5) calendar days and not more than twenty-one
18 (21) calendar days after receipt of the request from the owner. Said written request must be
19 accompanied by the appropriate filing fee and any applicable fees for the care and boarding of
20 said ~~animal~~ dog (due through the fifth day following the date of the request for hearing), as well
21 as the cost of the investigation. The filing fee and any other applicable fees shall be established
22 by the board by resolution and is ~~are~~ nonrefundable. The division shall provide notice of the
23 hearing to the owner by U.S. mail, electronic mail, facsimile, certified mail or certified hand
24 delivery. If the owner after seven (7) calendar days from the delivery of the "notice of intent to
25 classify/sufficient cause notice," has not filed a written request for a hearing, the process will
26 proceed and the dog shall be classified as dangerous.

27 (5) Once a hearing date is set, failure to appear before the special master may, at the
28 special master's discretion, result in the dismissal of the hearing with prejudice. In such
29 instances, the process will proceed and the dog shall be classified as dangerous.

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1 (6) Once a dog is classified as dangerous, the division shall provide written
2 notification to the owner by registered mail, certified hand delivery (signed receipt) or service
3 of process. The owner may then file a written request for a hearing in the county court to appeal
4 the classification within ten (10) business days after receipt of a written determination of
5 dangerous dog classification. In such instances, If the division allows the owner to maintain
6 possession of the dog during the appeal, the owner must confine the dog in a securely fenced or
7 enclosed area to prevent the dog animal from escaping or coming in contact with any human
8 person or domestic animal other than a person or domestic animal in the immediate household
9 family of the owner, pending a resolution of the appeal.

10 (b) *Dangerous dog mandates and responsibilities.* Within fourteen (14) days after a
11 dog has been classified as dangerous or a dangerous dog classification is upheld by the county
12 court on appeal, prior to release of the dog, the owner of the dog shall obtain a certificate of
13 registration for the dog from the division, and the certificate shall be renewed annually. The
14 registration fee shall be established by the board by resolution. The division shall issue such
15 certificates of registration, and renewals thereof, only to persons who are at least eighteen (18)
16 years of age and who present to the division sufficient evidence of compliance with the
17 mandates and acknowledgment of responsibilities set forth below:

18 (1) *Mandates for owner.* An owner of a dangerous dog shall comply with all of the
19 following:

20 a. Provide the division with a certificate of rabies vaccination.

21 b. A special dangerous dog tag supplied by the division shall be purchased annually
22 and affixed to the dog's collar to be worn at all times. The fee shall be established by the board
23 by resolution.

24 ~~e. A number shall be assigned to each dog that has been classified as dangerous. Such~~
25 ~~number shall be tattooed, at the owner's sole expense, upon such dog by a licensed veterinarian~~
26 ~~or person trained as a tattooist and authorized as such by any state, city or town. The number~~
27 ~~shall be tattooed on the dog's inside right thigh or right ear. At the discretion of the division,~~
28 ~~any dangerous dog already tattooed differently from that required by this section, need not be~~
29 ~~retattooed if the existing tattoo is legible and can properly identify that dog.~~

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1 ~~cd.~~ The dog shall ~~also~~ be implanted with an approved electronic animal identification
2 device (EAID) at the owner's sole expense.

3 de. The owner of a dangerous dog shall provide the division with two (2) color
4 photographs of the dog, (front view and side view) that clearly identifies the classified dog.
5 Each photograph shall be at least three (3) inches by three (3) inches.

6 ef. A dangerous dog must be spayed/neutered unless a licensed veterinarian has
7 examined the ~~animal~~ dog and certified in writing, that at such time spaying/neutering the
8 classified dog would endanger its health because of infirmity, disability, illness or other
9 medical consideration. However, the ~~animal~~ dog will be spayed/neutered as soon as its health
10 permits. If there is a disagreement concerning the health status for sterilizing a dangerous dog,
11 the division may have the animal care and control staff/contract veterinarian examine the dog to
12 determine its eligibility for sterilization. If the disagreement cannot be resolved, the division
13 and the owner shall agree on a third veterinarian to examine the animal for sterilization
14 eligibility. The cost of the third veterinarian shall be split evenly between the division and the
15 owner. The opinion of the third veterinarian shall govern.

16 (2) *Responsibilities for owner.*

17 a. The owner shall immediately notify the division when a dangerous dog:

- 18 1. Is loose, unconfined or lost/stolen;
- 19 2. Has bitten a human being or attacked another domestic animal;
- 20 3. Is sold, given away, or dies; or
- 21 4. Is moved to another address.

22 b. Prior to a dangerous dog being sold or given away, the owner shall provide the
23 name, address and phone number of the new owner to the division. The new owner shall
24 execute a document to be supplied by the division, acknowledging that the owner is aware of
25 the dangerous dog classification, and that the owner shall comply with the requirements of this
26 section herein. The new owner must comply with all of the requirements of this chapter. If the
27 animal is moved out of the county to another jurisdiction within the state, the owner is required
28 to abide by Florida Statutes, Chapter 767. The animal control authority at the new location
29 must be notified by the owner of a dog classified as dangerous, that the dog is in its jurisdiction.

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1 c. While on the owner's property, a dangerous dog must be securely confined indoors
2 or securely confined outdoors in an enclosed and locked structure, suitable to prevent the entry
3 of any person other than adult members of the immediate household and constructed to prevent
4 the ~~animal~~ dog from escaping. The structure must have minimum dimensions of four (4) feet by
5 ten (10) feet. Such structure shall have secure sides and a secure top and bottom to prevent the
6 dog from escaping over, under or through the structure. The enclosure shall provide a humane
7 existence for the dog and protection from the elements.

8 d. When being transported, ~~such dogs~~ a dangerous dog must wear a muzzle and be
9 safely and securely restrained within a vehicle.

10 e. The owner shall prominently display a sign to be provided by the division at the
11 owner's expense, on his/her premises at all entry points warning children and adults that there is
12 a dangerous dog on the property. The fee for this sign shall be established by the board by
13 resolution.

14 f. A dangerous dog shall at all times wear a muzzle when it is not securely confined
15 indoors or securely confined outdoors in an enclosed and locked structure on the owner's
16 property. A dangerous dog may be off the owner's premises or out of its enclosure if it is
17 muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and
18 under the control of a competent person. The muzzle must be made in a manner that will not
19 cause injury to the dog or interfere with its vision or respiration but must prevent it from biting
20 any person or domestic animal.

21 g. A dangerous dog shall not be used as a guard dog as defined in this chapter.

22 h. Dogs that have been classified as dangerous shall not be used for hunting purposes.

23 i. Dogs that have been classified as dangerous shall not be brought to a dog park or
24 public park or public beach that allows dogs.

25 k. When any person or domestic animal other than the owner or a person or domestic
26 animal in the immediate household of the owner visits the premises where the dangerous dog is
27 maintained, the owner shall secure the dangerous dog in an enclosed and locked structure to
28 prevent such person or domestic animal from coming into contact with the dangerous dog.

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1 1. Dogs that have been classified as dangerous shall not be brought to any commercial
2 establishment other than a veterinary office or other facility where the dangerous dog is being
3 treated.

4 The division shall have the authority to make whatever inspections are deemed necessary to
5 ensure that the provisions cited herein are complied with.

6 An owner of a dangerous dog shall have the option to have said dog humanely euthanized at
7 his/her sole expense by the division or licensed veterinarian if the owner is unable to comply
8 with the requirements cited herein.

9 (3) *Violations of mandate.*

10 a. , The division is responsible for investigating alleged violations of paragraph (2)
11 herein after a dog is classified as dangerous. A citation may be issued to the owner of any
12 dangerous dog alleged to be in violation of paragraph (2). The investigating officer may issue
13 such citation upon the receipt of one (1) sworn affidavit of complaint. This affidavit shall
14 specify the address or location of the alleged violation, the nature, time and date(s) of the act,
15 the name and address of the owner, if known, and a description of the dog animal. In the event
16 that a third or subsequent citation is issued to the owner for violation of paragraph (2), the
17 owner shall be required to appear in court.

18 b. An animal care and control officer may impound a dangerous dog if the owner fails
19 to comply with the dangerous dog mandates and responsibilities cited herein. A dangerous dog
20 impounded under this section may be redeemed by the owner upon the owner's compliance
21 with the dangerous dog mandates and responsibilities and payment of any boarding fees,
22 impound fees, or other applicable fees established by the board by resolution. If the owner
23 does not comply with the dangerous dog mandates and responsibilities and redeem the
24 dangerous dog within fourteen (14) days of the date the dog was impounded, the dog shall be
25 humanely euthanized.

26 (c) *Vicious dog.*

27 (1) *Upgrading dangerous dog to vicious dog.* If a dog that has previously been
28 declared dangerous attacks or bites a person or a domestic animal, when unprovoked, ~~without~~
29 ~~provocation,~~ the dangerous dog shall be immediately confiscated by the division, placed in
30 quarantine, if necessary, for the proper length of time or impounded and held ten (10) business

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1 days after the owner is given written notification by certified mail, certified hand delivery
2 (signed receipt) or service of process. The division shall make an initial determination as to
3 whether there is sufficient cause to upgrade the dangerous classification to vicious.

4 (2) *Classifying a dog as vicious that has not been previously declared dangerous.* If a
5 dog that has not been declared dangerous attacks and causes severe injury to or death of any
6 human, the dog shall be immediately confiscated by the division, placed in quarantine, if
7 necessary, for the proper length of time or held for ten (10) business days after the owner is
8 given written notification by certified mail, certified hand delivery (signed receipt) or service of
9 process. The division shall make an initial determination as to whether there is sufficient cause
10 to classify the dog as vicious. A dog that has not been previously declared dangerous shall not
11 be declared vicious if the severe injury or death was sustained by a person who, at the time, was
12 unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or
13 assaulting the dog, the owner, or a person in the immediate household of the owner.

14 (3) *Vicious dog classification process.*

15 a. The division shall investigate any incident involving any dog that may be
16 vicious and shall, if possible, interview the owner and require a sworn affidavit
17 from any person, animal control officer, or enforcement officer desiring to have
18 a dog classified as vicious. The division shall provide written notification of
19 sufficient cause finding, to the owner, by registered mail, certified hand delivery
20 (signed receipt) or service of process. The ten (10) business ~~ten-day~~ time period
21 from date of notification, shall allow the owner to file a written request for a
22 hearing before a special master prior to a final determination of the ~~upgraded~~
23 vicious classification. The hearing shall be held no sooner than five (5) calendar
24 days and not more than twenty-one (21) calendar days after receipt of the
25 request from the owner. The appropriate filing fee, any applicable fees for the
26 care and boarding of said dog animal (due through the fifth day following the
27 date of the request for hearing), and the cost of the investigation must
28 accompany the owner's written request. None of these fees are refundable. The
29 ~~filing fees~~ shall be established by the board by resolution. The division shall
30 provide notice of the hearing to the owner by U.S. mail, electronic mail,

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1 facsimile, certified mail or certified hand delivery. If the owner fails to appeal
2 within the ten (10) business ~~ten-day~~ period, the dog animal shall be humanely
3 euthanized.

4 b. Once a hearing date is set, failure to appear before the special master may, at
5 the special master's discretion, result in the dismissal of the hearing with
6 prejudice. In such instances, the process will proceed and the dog shall be
7 classified as vicious. The owner shall be responsible for payment of all boarding
8 costs and other fees as may be required to humanely and safely keep the dog
9 animal during any appeal procedure. ~~In the event that a dog is to be destroyed,~~
10 ~~the dog shall not be relocated or the ownership transferred.~~

11 ~~If a dog attacks or bites a person who is engaged in or attempting to engage in a~~
12 ~~criminal activity at the time of the attack, the owner will be exempt from this~~
13 ~~section.~~

14 (4) *Notice of appeal.* If within the ten (10) business day period after written
15 notification of the special master's decision is received, the owner files a written appeal with the
16 county court, the dog must be held by the division and may not be destroyed while the appeal is
17 pending.

18 ~~(d) *Third violation for dangerous/vicious dog.* In the event that a third citation is~~
19 ~~issued to an owner for violation of the dangerous/vicious dog requirements, the owner of the~~
20 ~~dangerous/vicious dog shall be required to appear in court. In addition to applicable fines and~~
21 ~~court costs, the judge may order that the owner turn the dangerous/vicious dog over to the~~
22 ~~division for impoundment, euthanasia, etc. Failure of the owner to turn the dog over to the~~
23 ~~division shall constitute contempt.~~

24 ~~If impoundment is ordered, the owner will be responsible for costs incurred by the division in~~
25 ~~boarding and caring for said dog animal. All costs must be paid in full prior to release of said~~
26 ~~animal. Failure of the owner to comply with the judge's order within ten (10) days shall result~~
27 ~~in euthanasia of the animal.~~

28 * * *

1 **Section 3. REPEAL OF LAWS IN CONFLICT.**

2 All local laws and ordinances in conflict with any provisions of this Ordinance are
3 hereby repealed to the extent of such conflict.

4
5 **Section 4. SAVINGS CLAUSE.**

6 Notwithstanding anything herein to the contrary, all provisions of Palm Beach County
7 Ordinance No. 98-22, as amended by Ordinances 2003-29, 2005-44, 2008-004 and all licenses,
8 permits, enforcement orders, and ongoing enforcement actions issued thereunder are
9 specifically preserved and remain in full force and effect.

10
11 **Section 5. SEVERABILITY.**

12 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
13 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,
14 such holding shall not affect the remainder of this Ordinance.

15
16 **Section 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

17 The provisions of this Ordinance shall become and be made a part of the Palm Beach
18 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish
19 such, and the word "ordinance" may be changed to "section," "article," or other appropriate
20 word.

21
22 **Section 7. ENFORCEMENT.**

23 This Ordinance is enforceable by all means provided by law. Additionally, the County
24 may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm
25 Beach County.

26
27 **Section 8. PENALTY.**

28 Any violation of any portion of this Ordinance shall be punishable as provided by law.
29

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1 **Section 9. CAPTIONS.**

2 The captions, section headings, and section designations used in this Ordinance are for
3 convenience only and shall have no effect on the interpretation of the provisions of this
4 Ordinance.

5
6 **Section 10. EFFECTIVE DATE.**

7 The provisions of this Ordinance shall become effective upon filing with the
8 Department of State.

9
10 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
11 County, Florida, on this the ____ day of _____, 20 ____.

12 | **SHARON R. BOCK, CLERK**
13 **AND COMPTROLLER**

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

14
15
16 By: _____
17 **Deputy Clerk**

By: _____
John F. Koons, Chairman

18
19 **APPROVED AS TO FORM AND**
20 **LEGAL SUFFICIENCY**

21
22
23 By: _____
24 **County Attorney**

25
26
27 **EFFECTIVE DATE: Filed with the Department of State on the ____ day of**
28 **_____, 20 ____.**

29
30
31