

Section 27. DANGEROUS DOGS AND VICIOUS DOGS.

Section 2. DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall" and "will" are mandatory, and the word "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Adult dog or cat shall mean any dog or cat that is six (6) months of age or older

Advertising shall mean any statement made in connection with the solicitation of an animal service, animal business, and/or the sale of an animal and includes without limitation, statements and representations made in a newspaper or other publication, on the radio, television, or internet or contained in any notice, handbill, business card, sign, catalog, billboard, brochure, poster or letter.

Altered animal shall mean any animal that has been spayed or neutered.

Animal shall mean any living vertebrate other than a human being.

Animal care and control division or division shall mean an entity of the board of county commissioners.

Animal control officer/code enforcement officer shall mean any person employed by the county whose duty it is to enforce codes and ordinances pursuant to Florida Statutes, § 162.21, and including county animal care and control ordinances and as defined in Florida Statutes, § 828.27(1)(b) and other applicable state laws.

Authorized veterinarian/clinic shall mean any person licensed or permitted to practice veterinary medicine under the laws of the state and such person shall have had no previous incidents where money collected from the sale of rabies/license tags has been used/handled inappropriately or illegally.

Board shall mean the board of county commissioners of the county.

Breeding shall mean sexual intercourse or artificial insemination of an animal, the result of which may be offspring.

County shall mean the incorporated and unincorporated areas of the county.

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

- (1) Has aggressively bitten, attacked, endangered or has inflicted injury on a human being on public or private property.*
- (2) Has severely injured or killed a domestic animal while off the owner's property.*
- (3) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting.*
- (4) Has, when unprovoked and while off the owner's property, chased or approached a person 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 division.*

Direct control shall mean immediate and continuous physical control of an animal (excluding herding dogs, dogs in the process of hunting, police dogs, dogs participating in a registered field trial, obedience trial, and confirmation show and/or match) at all times such as by means of a fence, leash, cord or chain of sufficient strength to restrain the animal. When an animal is specifically trained to immediately respond to oral or visual commands, direct control shall include oral or visual control if the controlling person is at all times clearly and fully within unobstructed sight and hearing of the animal, but in no case to exceed one hundred (100) feet. Oral control shall at all times prevent the animal from running at large or otherwise violating the provisions of this chapter.

Director shall mean the Director of the Palm Beach County Division of Animal Care and Control.

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

Excess animal habitat shall mean any property measuring two and one-half (2.5) acres or more on which the maximum number of thirty (30) dogs and cats has been exceeded and for which a permit has been issued by the division.

Feral cat shall mean any cat that has no apparent owner or identification and is apparently wild, untamed, unsocialized, unmanageable and unable to be approached or handled.

Grooming establishment shall mean any place of business (stationary or mobile) which accepts private pets for bathing, clipping, dipping, pedicuring or other related services (not to include breeding, dentistry or overnight boarding).

Guard dog shall mean any type of dog used for the purpose of defending, patrolling or protecting property or life at any commercial establishment or which resides on the commercial property. The term "guard dog" shall exclude any stock dogs used primarily for handling and controlling livestock or farm animals.

Guide dog or *service animal* shall mean any guide dog, signal dog, or other animal individually trained and utilized to do work or perform tasks for the benefit of an individual with a disability, including but not limited to guiding an individual with impaired vision, alerting an individual with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items (as stated in Americans With Disabilities Act Rules and Regulation Regarding Service Animals, 28 Code of Federal Regulation (CFR) Part 36, Subpart A-General 36.104 Definitions).

Harborer or *caregiver* shall mean any person who provides care, shelter, protection, refuge, or nourishment to an animal or undertakes the responsibility to do so.

Hobby breeder shall mean any person who intentionally or unintentionally causes or allows the breeding or studing of a dog or a cat or engages in the breeding of up to two (2) litters of dogs or cats or nineteen (19) dogs or cats per household or premises per calendar year, whether or not such animal(s) are made available for sale, adoption, or other placement.

Humane society shall mean an incorporated organization that has a nonprofit status with the Internal Revenue Service for which the central purpose is to provide for the protection of animals. A humane society accepts members from the public at-large and the controlling board is elected by the general membership. A humane society operates from a business facility on commercially zoned property and has advertised and set hours for public access.

Humane trap shall mean any device used for capturing an animal without inflicting injury, pain or suffering and which provides adequate ventilation for the trapped animal. Snares, leg traps or similar devices are considered inhumane and shall not be used.

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

Juvenile dog or cat shall mean any dog or cat that is at least two (2) months of age but younger than four (4) months of age for the purposes of rabies vaccinations/tags.

Kennel/cattery or *pet dealer* or *commercial breeder* shall mean any place of business at which dogs or cats are kept for sale, breeding, boarding, training, rental, or other use for hire or any person who engages in the breeding of more than two (2) litters of dogs or cats or twenty (20) dogs or cats, whichever is greater, per calendar year, whether or not such animals are made available for sale, adoption or other placement.

Livestock shall include all animals of the equine (horse, mule, etc.), bovine (cattle), porcine (swine), caprine (goats), ovine (sheep) and domesticated poultry.

Official certificate of veterinary inspection shall mean a legible certificate of veterinary inspection which has been issued by the state department of agriculture and consumer services and signed by the examining veterinarian licensed by the state and accredited by the United States Department of Agriculture.

Owner shall mean any person, firm, corporation, organization, humane society, public or private nonprofit organization, harborer, or caregiver who owns, keeps, harbors, possesses, or has control or custody of an animal. If the person purporting to own an animal is a minor as defined by the Florida Statutes, the minor's parent(s) or legal guardian shall be deemed the owner of an animal for the purposes of this chapter.

Person shall mean any natural person, society, firm, corporation, partnership, association, humane society, public or private nonprofit organization, other legal entity, public or private institution, municipal corporation, unit of local government or other business unit and every officer, agent, or employee of such business unit. If the person is a minor as defined by the Florida Statutes, the minor's parent(s) or legal guardian shall be deemed the owner of an animal for the purposes of this chapter.

Pet shop shall be held to include any place or business where pet/companion animals (including small animals intended for use as reptile food) are kept for retail or wholesale purchase. Excluded are those animals regulated and controlled by the state game and fresh water fish commission.

Police work dog shall mean any dog owned by any state, county or municipal police department or any state or federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purposes.

Premises shall mean any parcel of land and the structures thereon.

Private animal nonprofit organization shall mean any person, group or corporation which is registered as a nonprofit organization according to state law and is sheltering, adopting, fostering, providing rescue or old age homes for dogs and/or cats. "Rescue" shall include legally receiving dogs and/or cats from shelters or owners, and providing medical or behavioral rehabilitation for placement into new homes. Breeding of rescue dogs or cats is prohibited.

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

Quarantine shall mean the strict confinement, isolation and observation of an animal suspected of having rabies or any other infectious zoonotic disease.

Secure enclosure shall mean a locked pen or structure constructed to prevent an animal from escaping over, under or through the enclosure. The enclosure shall have secure sides and a top.

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

Stable, commercial shall mean those premises where:

- (1) More than four (4) equine are kept which do not belong to the owner or operator of the premises; or
- (2) Equine are kept for boarding, pasturing, breeding, riding, training, riding lessons, resale or rearing, and for which advertising is used to promote such activities. "Advertising" shall mean any written statement (excluding real property leasehold arrangements) made in connection with the solicitation of such businesses and includes without limitation, statements and representations made in a newspaper or other publication, or on radio or television or contained in any notice, handbill, business card, sign, catalog, billboard, brochure, poster or letter.

Stable, private shall mean those premises where up to four (4) equine are kept which do not belong to the owner or occupant of the premises.

Sterilization shall mean 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.

Sterilized shall refer to an animal permanently incapable of reproduction.

Stray (noun) shall mean any animal that does not appear, upon reasonable inquiry, to have an owner.

Unaltered shall mean an animal that has not been spayed or neutered.

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

Section 27. DANGEROUS DOGS AND VICIOUS DOGS.

(a) *Classification of dogs as dangerous.*

(1) The division 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, animal control officer, or enforcement officer, desiring to have a dog classified as dangerous. In the event that any animal control officer has sufficient cause to believe that a dog is dangerous and that the owner is unable or unwilling to humanely, safely and securely confine the dog, the officer may impound the dog pending the investigation if deemed necessary to protect the public. The owner shall be responsible for payment of all boarding costs and other fees required for the division to care for the dog pending the outcome of the investigation and resolution of any hearing related to dangerous dog classification. An owner's refusal to surrender a dog for impoundment pending the investigation shall constitute a violation of this Ordinance. At the discretion of the division, a dog that is the subject of a dangerous dog investigation, may be confined at a licensed facility approved by the division or at the residence of the owner if the division is given adequate assurance by the owner that the dog can be humanely, safely, and securely confined pending the investigation without posing a danger to the public. If the dog remains with the owner pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification, the dog shall be at all times maintained in a securely fenced or enclosed area to prevent the dog from escaping or coming into contact with any person or domestic animal other than a person or domestic animal in the immediate household of the owner. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification. The owner shall provide the division with the address of where the dog will be maintained pending an investigation and any related hearings.

(2) A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a person in the immediate household of the owner. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

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

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

after seven (7) calendar days from the delivery of the "notice of intent to classify/sufficient cause notice," has not filed a written request for a hearing, the process will proceed and the dog shall be classified as dangerous.

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

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

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

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

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

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

c. The dog shall be implanted with an approved electronic animal identification device (EAID) at the owner's sole expense.

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

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

(2) *Responsibilities for owner.*

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

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

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

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

d. When being transported, a dangerous dog must wear a muzzle and be safely and securely restrained within a vehicle.

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

f. A dangerous dog shall at all times wear a muzzle when it is not securely confined indoors or securely confined outdoors in an enclosed and locked structure on the owner's property. A dangerous dog may be off the owner's premises or out of its enclosure if it is muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and

under the control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or domestic animal.

- g. A dangerous dog shall not be used as a guard dog as defined in this chapter.
- h. Dogs that have been classified as dangerous shall not be used for hunting purposes.
- i. Dogs that have been classified as dangerous shall not be brought to a dog park or public park or public beach that allows dogs.
- k. When any person or domestic animal other than the owner or a person or domestic animal in the immediate household of the owner visits the premises where the dangerous dog is maintained, the owner shall secure the dangerous dog in an enclosed and locked structure to prevent such person or domestic animal from coming into contact with the dangerous dog.
- l. Dogs that have been classified as dangerous shall not be brought to any commercial establishment other than a veterinary office or other facility where the dangerous dog is being treated.

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

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

(3) *Violations.*

a. The division is responsible for investigating alleged violations of paragraph (2) herein after a dog is classified as dangerous. A citation may be issued to the owner of any dangerous dog alleged to be in violation of paragraph (2). The investigating officer may issue such citation upon the receipt of one (1) sworn affidavit of complaint. This affidavit shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address

of the owner, if known, and a description of the dog. In the event that a third or subsequent citation is issued to the owner for violation of paragraph (2), the owner shall be required to appear in court.

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

(c) *Vicious dog.*

(1) *Upgrading dangerous dog to vicious dog.* If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal, when unprovoked, the dangerous dog shall be immediately confiscated by the division, placed in quarantine, if necessary, for the proper length of time or impounded and held ten (10) business days after the owner is given written notification by certified mail, certified hand delivery (signed receipt) or service of process. The division shall make an initial determination as to whether there is sufficient cause to upgrade the dangerous classification to vicious.

(2) *Classifying a dog as vicious that has not been previously declared dangerous.* If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by the division, placed in quarantine, if necessary, for the proper length of time or held for ten (10) business days after the owner is given written notification by certified mail, certified hand delivery (signed receipt) or service of process. The division shall make an initial determination as to whether there is sufficient cause to

classify the dog as vicious. A dog that has not been previously declared dangerous shall not be declared vicious if the severe injury or death was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog, the owner, or a person in the immediate household of the owner.

(3) *Vicious dog classification process.*

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

b. Once a hearing date is set, failure to appear before the special master may, at the special master's discretion, result in the dismissal of the hearing with

prejudice. In such instances, the process will proceed and the dog shall be classified as vicious. 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.

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