

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING / AGENDA ITEM # 9a

SUBJECT: An Ordinance Amending Chapter 5, Flagler County Code of Ordinances, Related to Animals

DATE OF MEETING: September 16, 2019

OVERVIEW/SUMMARY: The County Commission postponed hearing this ordinance amendment at its August 19, 2019 meeting so that staff could evaluate the input of the American Kennel Club (AKC) and the Florida Veterinarian Medical Association (FVMA) received less than one hour prior to that meeting. The FVMA was concerned with the proposed requirement that dog and cat owners be required to possess a written statement from a veterinarian that a pet is inoculated and free from contagious disease. This has been a part of the County's Code of Ordinances for 30 years. However, the FVMA pointed out that such "certificates" may: (i) be impractical for pet owners since vets usually only provide such certifications in 30 day increments, (ii) create an incentive for counterfeit certificates, and (iii) be confused with the certificates already required by Section 829.28, *Florida Statutes*, for sales of dogs or cats. Based on this input, staff removed the requirement that pet owners possess such health certificates. The ordinance will now require only inoculations for dogs and cats as mandated by State law.

In addition at the urging of the AKC, staff has removed the requirement that pets be given a "continuous" supply of fresh water. The AKC advised that there are situations, such as house training a puppy, a horse that has just exercised, or under certain medical restrictions, where an animal should not have continuous access to water. The ordinance will now require animal owners to provide an appropriate supply of water.

Staff also considered the AKC's objection to the anti-tethering provisions of the ordinance. The ordinance will now allow unattended tethering with certain restrictions so that responsible pet owners are not unduly restricted due to the irresponsible actions of others. Tethered animals must have access to shelter, food, and water. Staff feels the proposed ordinance balances the interests of all dog owners while ordaining reasonable regulations to protect the health and safety of dogs and the public.

The updates to the ordinance described above are highlighted and attached to this memo as Attachment 2. The remaining summary below is repeated verbatim from the Board's previous consideration of this item:

In November 2018, the Board updated and clarified the Dangerous Dog Ordinance to assure the lawful application of quasi-judicial procedures consistent with Florida statutes and case law. Today's ordinance amendment addresses the rest of the County Animal Code, most of which has not been updated in a quarter century. The comprehensive scope of this amendment necessitates the restructuring of Chapter 5 of the County Code, including the renumbering of certain sections, such as those pertaining to the inoculation of cats and dogs.

Chapter 5 of the County Code regulates the possession and care of animals in the unincorporated areas of the county. Section 828.27, Florida Statutes, authorizes the Board to enact ordinances to implement a civil citation system to regulate conduct that would otherwise be criminal under Florida Statutes. The statute also authorizes the Board to require mandatory court appearances for certain aggravated and repeat violators of animal control ordinances. Currently, many repeat violators ignore citations issued by Animal Services and

do not pay the fines. Today's ordinance amendment will authorize Animal Services to require the mandatory appearance in court for repeat and aggravated violations of the Code.

Today's ordinance also prohibits animal cruelty and neglect. Currently, these are not prohibited by County Ordinance and are only addressed through criminal prosecution or through a petition to the court to obtain an order deeming an owner unfit to possess animals and remanding custody of animals to the Humane Society. Animal Services encounters many situations that do not rise to the level of criminal neglect or to the level where an owner should be forever barred from care or custody of animals, but nevertheless merit consequence. Today's ordinance will give Animal Services tools to address these cases through civil citations.

Other highlights of the ordinance include:

- Provides a civil citation enforcement mechanism through Animal Services for violations of the Code.
- Prohibits owners from allowing animals to run at large.
- Imposes a \$5 surcharge on civil citations to be used for training animal control officers.

FUNDING INFORMATION: N/A

DEPARTMENT CONTACT: Al Hadeed, County Attorney and Amy Carotenuto, Animal Services

RECOMMENDATION: Approve the Ordinance amending Chapter 5 of the County Code related to animals.

ATTACHMENTS:

- 1.) Animal Ordinance
- 2.) Ordinance Highlighting Changes From 8/19/19 Meeting
- 3.) Legal Advertisement
- 4.) Correspondence from the American Kennel Club
- 5.) Correspondence from the Humane Society of the United States

ORDINANCE 2019 - ____

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER FIVE OF THE COUNTY CODE OF ORDINANCES RELATED TO ANIMALS; AMENDING ARTICLE I, PROVIDING FOR PURPOSE AND DEFINITIONS; AMENDING ARTICLE II, PROVIDING FOR ANIMAL CONTROL AND ENFORCEMENT; AMENDING ARTICLE III, PROVIDING FOR TETHERING OF DOGS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sec. 125.01, *Fla. Stat.*, authorizes the Board of County Commissioners (“Board”) to perform acts, not inconsistent with law, that are in the common interest of the people of the County; and

WHEREAS, Art. I, §18, *Fla. Const.*, prohibits the Board from imposing penalties except as authorized through enactments of the Legislature; and

WHEREAS, the Legislature authorized boards of county commissioners through Sec. 828.27, *Fla. Stat.*, to enact ordinances relating to animal control and cruelty, which ordinances are to be identical to Ch. 828, *Fla. Stat.*, except that the penalty for violation of such ordinances shall be civil, not criminal; and

WHEREAS, Sec. 828.03, *Fla. Stat.*, authorizes the Board to appoint animal control officers for the purpose of investigating violations of local animal control and cruelty ordinances or any other law of the state for the purpose of protecting animals; and

WHEREAS, Sec. 828.27, *Fla. Stat.*, further authorizes the County to require the mandatory court appearance for certain aggravated or repeat violations of the County’s animal control ordinances; and

WHEREAS, the Board desires to curtail repeat violators of animal control standards from ignoring citations issued by Flagler County Animal Services and to otherwise empower Animal Services to enforce the standards of proper animal care;

NOW THEREFORE, be it ordained by the Flagler County Board of County Commissioners as follows:

SECTION 1. FINDINGS

The above recitals are incorporated herein as true and correct and establish the legislative intent of this Ordinance.

SECTION 2. FLAGLER COUNTY CODE AMENDMENT

Chapter 5 of the Flagler County Code of Ordinances is hereby amended as follows (additions are shown in underline, and deletions are shown in ~~striketrough~~ format):

Chapter 5 – ANIMALS

ARTICLE I. – IN GENERAL

Sec. 5-1. – ~~Penalty~~Purpose, jurisdiction and scope.

This chapter is enacted pursuant to Florida law and is intended to regulate the possession, ownership, care and custody of animals in the interest of the health, safety and welfare of both the citizens and animals of the county. This chapter shall apply to, and be effective within, the unincorporated areas of the county.

Sec. 5-2. – ~~Inoculation of dogs; health certificate.~~Definitions.

~~(a) Each dog possessed or owned within the unincorporated area of the county shall be inoculated annually against the following diseases:~~

- ~~—(1) Canine distemper;~~
- ~~—(2) Infections hepatitis;~~
- ~~—(3) Leptospirosis;~~
- ~~—(4) Tracheobronchitis; and~~
- ~~—(5) Canine parvo virus.~~

~~(b) Dogs shall be vaccinated for rabies as required by Florida law.~~

~~(c) The person who owns or possesses a dog within the unincorporated area of the county shall, at all times, have available for inspection an official health certificate of the dog. As used in this section the term “official health certificate” means a certificate signed by a veterinarian to the dog and shall state that the animal has no contagious or infections disease.~~

The following terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

Animal means any living dumb creature.

Animal abuse shall mean the commission of any act that constitutes the criminal offense of:

- (1) Euthanasia of dogs or cats under F.S. §828.058, or its successor, or the euthanasia of animals in violation of F.S. §828.065 or its successor;

- (2) Exposing poison under F.S. §828.08 or its successor;
- (3) Cruelty to animals under F.S. §828.12 or its successor;
- (4) Fighting or baiting animals under F.S. §828.122 or its successor;
- (5) Killing a dog or cat with the intent to sell or give away its pelt under F.S. §828.123 or its successor;
- (6) Killing or aggravated abuse of horse or cattle under F.S. §828.125 or its successor;
- (7) Sexual activities involving animals under F.S. §828.126 or its successor;
- (8) Abandonment or confinement of animals without sufficient food, water, or exercise under F.S. §828.13 or its successor.

Animal control officer means any person approved by the Board of County Commissioners and employed or appointed by Flagler County Animal Services to investigate civil infractions relating to animal control or cruelty and to issue citations pursuant to this chapter.

Animal Services means Flagler County Animal Services as the agent appointed by the Board of County Commissioners to investigate violations of this chapter and any other law of the state for the purpose of protecting animals or such other entity as the board may appoint as successor to Flagler County Animal Services.

Owner means any person, organization, or business entity possessing, harboring, keeping or having control or custody of an animal or, if the animal is owned by a person under the age of eighteen, that person’s parent or guardian.

Sec. 5-3.— ~~Inoculation of cats; health certificate~~

- ~~(a) Each cat possessed or owned within the unincorporated area of the county shall be inoculated annually against the following diseases:

 - ~~(1) Feline respiratory infection; and~~
 - ~~(2) Feline distemper.~~~~
- ~~(b) Cats shall be vaccinated for rabies as required by Florida law.~~
- ~~(c) The person who owns or possesses a cat within the unincorporated area of the county shall, at all times, have available for inspection an official health certificate of the cat. As used in this section the term “official health certificate” means a certificate signed by a veterinarian licensed by the state which shows the age, sex, breed, description and health record of the cat, and which shall list the date of all vaccines by the type and lot number administered by a licensed veterinarian to the cat and shall state that the animal has no contagious or infectious disease.~~

~~Sec. 5-4. – Reserved.~~

~~Secs. 5-55-3 – 5-25. Reserved.~~

ARTICLE II. – ~~RESERVED.~~ ANIMAL CONTROL AND ENFORCEMENT

Sec. 5-26. – ~~5-59. – Reserved.~~ Cruelty and Neglect Prohibited.

- (a) It shall be unlawful for any person to commit any act of animal abuse as defined herein.
- (b) It shall be unlawful for any person to neglect or mistreat an animal. Such conduct shall include but is not limited to the following:
 - (1) Fail to provide an animal with an appropriate supply of fresh water and sufficient quantity of wholesome food.
 - (2) Keep an animal in an enclosure without wholesome exercise, proper ventilation or lighting.
 - (3) Keep, house or maintain an animal in unsanitary conditions or conditions inconsistent with acceptable standards of care for the particular species.
 - (4) Entice or lure an animal off the property of its owner to molest or tease the animal.
 - (5) Failure to provide humane treatment or proper veterinary care or allowing an animal to suffer from illness or injury unnecessarily.
- (c) The owner of an animal shall ensure that the animal does not run at large or stray onto public property or the private property of another without permission from the property owner. Any animal that is off the property of its owner shall be restrained in a manner suitable for the type of animal such that it is under the direct control of the owner.
 - (1) An animal control officer may require an owner with three or more violations of this subsection to install physical restraints in order to prevent further violations of this subsection.
 - (2) This subsection shall not apply to law enforcement officers in the exercise of their duties.

Sec. 5-27. – Enforcement, Citations, and Penalty.

- (a) Animal control officers and law enforcement officers shall be responsible for enforcement of the provision of this chapter. Animal control officers shall be trained and certified in accordance with Florida law. Animal control officers, upon

finding probable cause that a violation of the provisions of this chapter has occurred, have the authority to investigate civil infractions relating to animals and take appropriate action as is reasonably necessary to enforce the provisions and accomplish the purposes of this chapter. In any investigation of an animal attacking another animal or human, the owner of the animal being investigated shall provide the animal control officer proof that the animal has vaccinations required by Florida law.

(b) This chapter is an additional, supplemental, and alternative means of enforcing county ordinances related to animals. This chapter does not prohibit the county from enforcing its ordinances by any other means, including the procedures provided in F.S. Ch. 162, or its successor, or as provided in section 1-6 of this Code.

(c) A violation of this chapter is a civil infraction. Law enforcement and animal control officers shall have the authority to issue citations to persons the law enforcement or animal control officer has probable cause to believe has committed an act in violation of any provision of this chapter. Any person who willfully refuses to sign and accept a citation issued pursuant to this chapter is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§775.082 or 775.083, or their successors. It is a violation of this chapter for any person to resist, obstruct, hinder, or interfere with a law enforcement or animal control officer in the enforcement of this chapter.

(1) The maximum civil penalty for violations of this chapter shall not exceed \$500. A civil penalty less than the maximum amount shall be assessed if the violator does not contest the citation. Animal Services shall establish a schedule of penalties for uncontested violations committed in the unincorporated county, with such schedule subject to the approval of the Board of County Commissioners. The schedule shall include a surcharge of \$5 for each civil penalty for violation of this chapter. The proceeds from these surcharges shall be used to defray the costs of training for animal control officers. The Clerk of the Court and Comptroller shall remit to Animal Services the \$5 surcharge from each fine paid.

(i) All civil penalties shall be satisfied by payment made payable to and acceptable by the Clerk of the Court. All monies collected pursuant to this chapter, less the Clerk's administrative fee, shall be remitted to Animal Services to be used solely for defraying the expenses of implementing this chapter, less any statutorily imposed fees for administrative handling of such sums.

(ii) Animal Services may refer judgments entered against violators of this chapter to a collection agency for processing, collection

and notification of failure of payment to any credit bureau. Any expenses imposed on the owner by operation of this chapter which remain unpaid as of the time of judicial handling shall be ordered paid as part of the court's disposition. Animal Services may also seek payment of outstanding expenses as restitution in prosecuting any violation of this chapter, including for any companion or related criminal or civil prosecution. Nothing herein shall relieve the owner of civil liability for injuries or damage which result from actions or inactions that are violations of this chapter.

(2) An alleged violator may pay the civil penalty indicated on the written citation at any time within 30 days of the date of issuance of the written citation. Payment of the civil penalty waives the alleged violator's right to a hearing to contest the citation and shall constitute an admission of the violation. An alleged violator may contest the validity of a citation by requesting a hearing before a judge of the Flagler County Court. The alleged violator shall request a hearing in writing within thirty days from the date of issuance according to the instructions on the citation.

(3) If an alleged violator fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required by subsection (c) below, the court may issue an order to show cause upon the request of the law enforcement or animal control officer. This order to show cause shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court. It shall be a separate violation for any person who does not contest a citation issued under this chapter to fail to pay the citation.

(d) An animal control officer, after consultation with the county attorney, may issue a citation requiring the mandatory court appearance of an alleged violator for the following violations:

(1) Aggravated violations of any county ordinance resulting in the unprovoked biting, attacking, or wounding of a domestic animal;

(2) Violations resulting in the destruction or loss of personal property;

(3) Second or subsequent violations of the provisions of this chapter pertaining to animal cruelty; or

(4) Violations of any part of this chapter resulting in the issuance of a third or subsequent citation to a person.

Animal Services shall maintain records to prove the number of citations issued to the person. Citations issued pursuant to this subsection must clearly inform

the person of the mandatory court appearance. Persons required to appear in court pursuant to this subsection do not have the option of paying the fine to avoid appearing before the court.

ARTICLE III. – CONFINEMENT OF DOGS; INNOCULATION OF DOGS, CATS

* * * *

Sec. 5-61. – Leashed/under control of owner and tethering.

(a) For purposes of this subsection:

~~(a)~~(1) All dogs shall be confined to their owner’s property or leashed and under the control of the owner and may not run at large outside of the owner’s property.

~~(b)~~(2) All dogs, except those otherwise exempted within this article and those identified as service animals as defined in F.S. § 413.08, or its successor, are prohibited at all times from active public recreation areas where organized recreational activities take place, including sports fields, ball fields, tennis and basketball courts, and adjacent spectator areas, except an owner shall be permitted to pass through these areas to access permissible areas.

~~(c)~~(3) This subsection shall not apply to designated dog parks; provided, however, that an owner may not knowingly permit a sick, dangerous, or rabid dog within, or to remain within, a dog park. All dogs within a dog park, as a condition of the use of the facility, shall be appropriately vaccinated ~~and an owner shall retain on his/her person such proof of currency of vaccinations in the form of the "official health certificate" consistent with section 5-2 of this chapter for the duration of the use of the dog park. An owner's failure or refusal to provide an official health certificate when requested by any animal control officer or sheriff's deputy shall be a violation of this provision and be subject to the penalties provided within this article.~~

(b) Where a dog is being held or kept outdoors, a tether may be used as a means of direct control of the dog, only if all of the following conditions are met:

(1) Any tether must be of sufficient strength to prevent escape but may not place the animal in danger of injury or death.

(i) Choke or prong collars are prohibited during tethering of an animal. Logging chains, vehicle tow chains, or welded metal link chains with links larger than 2.5 millimeters in thickness may not be used to tether an animal regardless of the size or length of the tether.

- (ii) The addition of weight to an animal’s collar, harness, or tether is prohibited.
- (iii) The tether must be attached to the animal by a properly applied collar or harness, with a swivel hook, and configured so as to protect the animal from injury and prevent entanglement with other objects and/or animals. A leash or lead may not be attached directly to the animal’s neck in lieu of a manufactured collar or harness.
- (iv) The tether shall be of a length and weight to allow an animal to move at least 12 feet in all directions from the point of tethering. The tether shall not be attached to a stationary object or trolley at a point or location that would allow the animal to extend the tether over a fence or other object or edge in such manner that could result in the strangulation of or injury to the animal.
- (v) Unattended, tethered animals must have access to proper shelter for protection from the weather, extreme temperatures, and direct sunlight. Unattended, tethered animals must have access to sufficient wholesome food and potable water.
- (2) A tethered dog must be released from the tether and confined in an alternate manner for not less than ten continuous hours during each 24-hour period.
- (3) A dog may never be left tethered and unattended on vacant or abandoned property.
- (4) Notwithstanding the exception provided in subpart (5) below, a dog that is sick or injured cannot be tethered as a means of confinement by the owner nor may a puppy under the age of six months be tethered at any time unless the owner is present and attending to the puppy during the entire time the puppy is tethered.
- (5) A dog classified as dangerous pursuant to F.S. Ch. 767, or its successor, may only be kept on a tether according to the foregoing requirements if it is otherwise secured within a proper enclosure as required by law.
- (6) In accordance with F.S. §163.3162, or its successor, the provisions of this subsection do not apply to dogs that are kept or used on lands being used for a bona fide farm operation on lands classified as agricultural pursuant to F.S. §193.461 or its successor.

* * * *

Sec. 5-69. — ~~Applicability and enforcement in unincorporated areas; definition. Inoculation of dogs.~~

~~This article shall apply to and be enforced in the unincorporated areas of the county. For the purposes of this article, “owner” shall mean 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 eighteen (18), that person's parent or guardian.~~

Each dog possessed or owned within the unincorporated area of the county shall be inoculated in accordance with Florida law.

Sec. 5-70. —~~Enforcement.~~Inoculation of cats.

~~The animal control officer, in conjunction with the sheriff of the county, shall be responsible for enforcement of the provisions of this article. It is a violation of this article for any person to resist, obstruct, hinder, or interfere with the animal control officer or the sheriff's deputies in the enforcement of this article.~~

Each cat possessed or owned within the unincorporated area of the county shall be inoculated in accordance with Florida law.

~~Secs. 5-71. Violation; penalty.~~ — Sec. 5-72. Reserved.

~~A violation of this article is a civil infraction which carries a maximum civil penalty not to exceed five hundred dollars (\$500.00). If a person who has committed the civil infraction does not contest the citation, the civil penalty shall be less than the maximum civil penalty. Such lesser amount shall be set by the law enforcement officer or animal control officer. Any civil penalties assessed and paid shall be used solely for defraying the expenses, costs and contracts in implementing this article, less any statutorily imposed fees for administrative handling of such sums. Further, any expenses imposed on the animal's owner by operation of this article that remain unpaid as of the time of judicial handling shall be ordered paid as part of the court's disposition. The county may also seek payment of outstanding expenses as restitution in any companion or related civil or criminal prosecution. In the event of a violation of F.S. ch. 767, the animal's owner shall be subject to applicable criminal penalties in addition to any civil infraction. Further, nothing herein shall relieve the owner of civil liability for injuries or damage that result from actions or inactions that are violations of the provisions herein.~~

~~Sec. 5-72. Issuance of citation; show cause order.~~

~~A law enforcement or animal control officer who has probable cause to believe that a person has committed an act in violation of this article may issue a citation to the person. Such a citation may be contested in the county court. If a person fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the law enforcement or animal control officer. This order shall require such a person to appear before the court to explain why action on the citation has not been taken. If any person who is used~~

such an order fails to appear in response to the court's directive, that person may be held in contempt of court.

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~~Sec. 5-74. Maximum surcharge imposed for violation; use of proceeds.~~

~~A surcharge in the maximum amount permitted by state law shall be imposed upon each violator receiving a civil penalty. The proceeds shall be used to defray the costs for required training courses for animal control officers.~~

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or re-lettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

[Signature Page To Follow.]

PASSED AND ADOPTED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, THIS 16TH DAY OF SEPTEMBER 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

Donald T. O'Brien Jr., Chair

Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney

ORDINANCE 2019 - ____

AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER FIVE OF THE COUNTY CODE OF ORDINANCES RELATED TO ANIMALS; AMENDING ARTICLE I, PROVIDING FOR PURPOSE AND DEFINITIONS; AMENDING ARTICLE II, PROVIDING FOR ANIMAL CONTROL AND ENFORCEMENT; AMENDING ARTICLE III, PROVIDING FOR TETHERING OF DOGS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sec. 125.01, *Fla. Stat.*, authorizes the Board of County Commissioners (“Board”) to perform acts, not inconsistent with law, that are in the common interest of the people of the County; and

WHEREAS, Art. I, §18, *Fla. Const.*, prohibits the Board from imposing penalties except as authorized through enactments of the Legislature; and

WHEREAS, the Legislature authorized boards of county commissioners through Sec. 828.27, *Fla. Stat.*, to enact ordinances relating to animal control and cruelty, which ordinances are to be identical to Ch. 828, *Fla. Stat.*, except that the penalty for violation of such ordinances shall be civil, not criminal; and

WHEREAS, Sec. 828.03, *Fla. Stat.*, authorizes the Board to appoint animal control officers for the purpose of investigating violations of local animal control and cruelty ordinances or any other law of the state for the purpose of protecting animals; and

WHEREAS, Sec. 828.27, *Fla. Stat.*, further authorizes the County to require the mandatory court appearance for certain aggravated or repeat violations of the County’s animal control ordinances; and

WHEREAS, the Board desires to curtail repeat violators of animal control standards from ignoring citations issued by Flagler County Animal Services and to otherwise empower Animal Services to enforce the standards of proper animal care;

NOW THEREFORE, be it ordained by the Flagler County Board of County Commissioners as follows:

SECTION 1. FINDINGS

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Chapter 5 – ANIMALS

ARTICLE I. – IN GENERAL

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- ~~—(1) Canine distemper;~~
- ~~—(2) Infections hepatitis;~~
- ~~—(3) Leptospirosis;~~
- ~~—(4) Tracheobronchitis; and~~
- ~~—(5) Canine parvo virus.~~

~~(b) Dogs shall be vaccinated for rabies as required by Florida law.~~

~~(c) The person who owns or possesses a dog within the unincorporated area of the county shall, at all times, have available for inspection an official health certificate of the dog. As used in this section the term “official health certificate” means a certificate signed by a veterinarian to the dog and shall state that the animal has no contagious or infections disease.~~

The following terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

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- (2) Exposing poison under F.S. §828.08 or its successor;
- (3) Cruelty to animals under F.S. §828.12 or its successor;
- (4) Fighting or baiting animals under F.S. §828.122 or its successor;
- (5) Killing a dog or cat with the intent to sell or give away its pelt under F.S. §828.123 or its successor;
- (6) Killing or aggravated abuse of horse or cattle under F.S. §828.125 or its successor;
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Animal Services means Flagler County Animal Services as the agent appointed by the Board of County Commissioners to investigate violations of this chapter and any other law of the state for the purpose of protecting animals or such other entity as the board may appoint as successor to Flagler County Animal Services.

Owner means any person, organization, or business entity possessing, harboring, keeping or having control or custody of an animal or, if the animal is owned by a person under the age of eighteen, that person’s parent or guardian.

Sec. 5-3.— ~~Inoculation of cats; health certificate~~

- ~~(a) Each cat possessed or owned within the unincorporated area of the county shall be inoculated annually against the following diseases:

 - ~~(1) Feline respiratory infection; and~~
 - ~~(2) Feline distemper.~~~~
- ~~(b) Cats shall be vaccinated for rabies as required by Florida law.~~
- ~~(c) The person who owns or possesses a cat within the unincorporated area of the county shall, at all times, have available for inspection an official health certificate of the cat. As used in this section the term “official health certificate” means a certificate signed by a veterinarian licensed by the state which shows the age, sex, breed, description and health record of the cat, and which shall list the date of all vaccines by the type and lot number administered by a licensed veterinarian to the cat and shall state that the animal has no contagious or infectious disease.~~

~~Sec. 5-4. – Reserved.~~

~~Secs. 5-55-3 – 5-25. Reserved.~~

ARTICLE II. – ~~RESERVED.~~ ANIMAL CONTROL AND ENFORCEMENT

Sec. 5-26. – ~~5-59. – Reserved.~~ Cruelty and Neglect Prohibited.

- (a) It shall be unlawful for any person to commit any act animal abuse as defined herein.
- (b) It shall be unlawful for any person to neglect or mistreat an animal. Such conduct shall include but is not limited to the following:
 - (1) Fail to provide an animal with an appropriate supply of fresh water and sufficient quantity of wholesome food.
 - (2) Keep an animal in an enclosure without wholesome exercise, proper ventilation or lighting.
 - (3) Keep, house or maintain an animal in unsanitary conditions or conditions inconsistent with acceptable standards of care for the particular species.
 - (4) Entice or lure an animal off the property of its owner to molest or tease the animal.
 - (5) Failure to provide humane treatment or proper veterinary care or allowing an animal to suffer from illness or injury unnecessarily.
- (c) The owner of an animal shall ensure that the animal does not run at large or stray onto public property or the private property of another without permission from the property owner. Any animal that is off the property of its owner shall be restrained in a manner suitable for the type of animal such that it is under the direct control of the owner.
 - (1) An animal control officer may require an owner with three or more violations of this subsection to install physical restraints in order to prevent further violations of this subsection.
 - (2) This subsection shall not apply to law enforcement officers in the exercise of their duties.

Sec. 5-27. – Enforcement, Citations, and Penalty.

- (a) Animal control officers and law enforcement officers shall be responsible for enforcement of the provision of this chapter. Animal control officers shall be trained and certified in accordance with Florida law. Animal control officers, upon

finding probable cause that a violation of the provisions of this chapter has occurred, have the authority to investigate civil infractions relating to animals and take appropriate action as is reasonably necessary to enforce the provisions and accomplish the purposes of this chapter. In any investigation of an animal attacking another animal or human, the owner of the animal being investigated shall provide the animal control officer proof that the animal has vaccinations required by Florida law.

(b) This chapter is an additional, supplemental, and alternative means of enforcing county ordinances related to animals. This chapter does not prohibit the county from enforcing its ordinances by any other means, including the procedures provided in F.S. Ch. 162, or its successor, or as provided in section 1-6 of this Code.

(c) A violation of this chapter is a civil infraction. Law enforcement and animal control officers shall have the authority to issue citations to persons the law enforcement or animal control officer has probable cause to believe has committed an act in violation of any provision of this chapter. Any person who willfully refuses to sign and accept a citation issued pursuant to this chapter is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§775.082 or 775.083, or their successors. It is a violation of this chapter for any person to resist, obstruct, hinder, or interfere with a law enforcement or animal control officer in the enforcement of this chapter.

(1) The maximum civil penalty for violations of this chapter shall not exceed \$500. A civil penalty less than the maximum amount shall be assessed if the violator does not contest the citation. Animal Services shall establish a schedule of penalties for uncontested violations. The schedule shall include a surcharge of \$5 for each civil penalty for violation of this chapter. The proceeds from these surcharges shall be used to defray the costs of training for animal control officers. The Clerk of the Court and Comptroller shall remit the \$5 surcharge from each fine paid to Animal Services.

(i) All civil penalties shall be satisfied by payment made payable to and acceptable by the Clerk of the Court. All monies collected pursuant to this chapter, less the Clerk's administrative fee, shall be credited to Animal Services to be used solely for defraying the expenses of implementing this chapter, less any statutorily imposed fees for administrative handling of such sums.

(ii) Animal Services may refer judgments entered against violators of this chapter to a collection agency for processing, collection and notification of failure of payment to any credit bureau. Any expenses imposed on the owner by operation of this chapter

which remain unpaid as of the time of judicial handling shall be ordered paid as part of the court's disposition. Animal Services may also seek payment of outstanding expenses as restitution in prosecuting any violation of this chapter, including for any companion or related criminal or civil prosecution. Nothing herein shall relieve the owner of civil liability for injuries or damage which result from actions or inactions that are violations of this chapter.

(2) An alleged violator may pay the civil penalty indicated on the written citation at any time within 30 days of the date of issuance of the written citation. Payment of the civil penalty waives the alleged violator's right to a hearing to contest the citation and shall constitute an admission of the violation. An alleged violator may contest the validity of a citation by requesting a hearing before a judge of the Flagler County Court. The alleged violator shall request a hearing in writing within thirty days from the date of issuance according to the instructions on the citation.

(3) If an alleged violator fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required by subsection (c) below, the court may issue an order to show cause upon the request of the law enforcement or animal control officer. This order to show cause shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court. It shall be a separate violation for any person who does not contest a citation issued under this chapter to fail to pay the citation.

(d) An animal control officer, after consultation with the county attorney, may issue a citation requiring the mandatory court appearance of an alleged violator for the following violations:

(1) Aggravated violations of any county ordinance resulting in the unprovoked biting, attacking, or wounding of a domestic animal;

(2) Violations resulting in the destruction or loss of personal property;

(3) Second or subsequent violations of the provisions of this chapter pertaining to animal cruelty; or

(4) Violations of any part of this chapter resulting in the issuance of a third or subsequent citation to a person.

Animal Services shall maintain records to prove the number of citations issued to the person. Citations issued pursuant to this subsection must clearly inform the person of the mandatory court appearance. Persons required to appear in

court pursuant to this subsection do not have the option of paying the fine to avoid appearing before the court.

ARTICLE III. – CONFINEMENT OF DOGS; INNOCULATION OF DOGS, CATS

* * * *

Sec. 5-61. – Leashed/under control of owner and tethering.

(a) For purposes of this subsection:

~~(a)~~(1) All dogs shall be confined to their owner’s property or leashed and under the control of the owner and may not run at large outside of the owner’s property.

~~(b)~~(2) All dogs, except those otherwise exempted within this article and those identified as service animals as defined in F.S. § 413.08, or its successor, are prohibited at all times from active public recreation areas where organized recreational activities take place, including sports fields, ball fields, tennis and basketball courts, and adjacent spectator areas, except an owner shall be permitted to pass through these areas to access permissible areas.

~~(c)~~(3) This subsection shall not apply to designated dog parks; provided, however, that an owner may not knowingly permit a sick, dangerous, or rabid dog within, or to remain within, a dog park. All dogs within a dog park, as a condition of the use of the facility, shall be appropriately vaccinated ~~and an owner shall retain on his/her person such proof of currency of vaccinations in the form of the "official health certificate" consistent with section 5-2 of this chapter for the duration of the use of the dog park. An owner's failure or refusal to provide an official health certificate when requested by any animal control officer or sheriff's deputy shall be a violation of this provision and be subject to the penalties provided within this article.~~

(b) Where a dog is being held or kept outdoors, a tether may be used as a means of direct control of the dog, only if all of the following conditions are met:

(1) Any tether must be of sufficient strength to prevent escape but may not place the animal in danger of injury or death.

(i) Choke or prong collars are prohibited during tethering of an animal. Logging chains, vehicle tow chains, or welded metal link chains with links larger than 2.5 millimeters in thickness may not be used to tether an animal regardless of the size or length of the tether.

(ii) The addition of weight to an animal’s collar, harness, or tether is prohibited.

- (iii) The tether must be attached to the animal by a properly applied collar or harness, with a swivel hook, and configured so as to protect the animal from injury and prevent entanglement with other objects and/or animals. A leash or lead may not be attached directly to the animal's neck in lieu of a manufactured collar or harness.
- (iv) The tether shall be of a length and weight to allow an animal to move at least 12 feet in all directions from the point of tethering. The tether shall not be attached to a stationary object or trolley at a point or location that would allow the animal to extend the tether over a fence or other object or edge in such manner that could result in the strangulation of or injury to the animal.
- (v) Unattended, tethered animals must have access to proper shelter for protection from the weather, extreme temperatures, and direct sunlight. Unattended, tethered animal must have access to sufficient wholesome food and potable water.
- (2) A tethered dog must be released from the tether and confined in an alternate manner for not less than ten continuous hours during each 24-hour period.
- (3) A dog may never be left tethered and unattended on vacant or abandoned property.
- (4) Notwithstanding the exception provided in subpart (5) below, a dog that is sick or injured cannot be tethered as a means of confinement by the owner nor may a puppy under the age of six months be tethered at any time unless the owner is present and attending to the puppy during the entire time the puppy is tethered.
- (5) A dog classified as dangerous pursuant to F.S. Ch. 767, or its successor, may only be kept on a tether according to the foregoing requirements if it is otherwise secured within a proper enclosure as required by law.
- (6) In accordance with F.S. §163.3162, or its successor, the provisions of this subsection do not apply to dogs that are kept or used on lands being used for a bona fide farm operation on lands classified as agricultural pursuant to F.S. §193.461 or its successor.

* * * *

Sec. 5-69.—Applicability and enforcement in unincorporated areas; definition. Inoculation of dogs.

~~This article shall apply to and be enforced in the unincorporated areas of the county. For the purposes of this article, “owner” shall mean 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 eighteen (18), that person's parent or guardian.~~

Each dog possessed or owned within the unincorporated area of the county shall be inoculated in accordance with Florida law.

Sec. 5-70. —Enforcement. Inoculation of cats.

~~The animal control officer, in conjunction with the sheriff of the county, shall be responsible for enforcement of the provisions of this article. It is a violation of this article for any person to resist, obstruct, hinder, or interfere with the animal control officer or the sheriff's deputies in the enforcement of this article.~~

Each cat possessed or owned within the unincorporated area of the county shall be inoculated in accordance with Florida law.

Secs. 5-71. Violation; penalty. — Sec. 5-72. Reserved.

~~A violation of this article is a civil infraction which carries a maximum civil penalty not to exceed five hundred dollars (\$500.00). If a person who has committed the civil infraction does not contest the citation, the civil penalty shall be less than the maximum civil penalty. Such lesser amount shall be set by the law enforcement officer or animal control officer. Any civil penalties assessed and paid shall be used solely for defraying the expenses, costs and contracts in implementing this article, less any statutorily imposed fees for administrative handling of such sums. Further, any expenses imposed on the animal's owner by operation of this article that remain unpaid as of the time of judicial handling shall be ordered paid as part of the court's disposition. The county may also seek payment of outstanding expenses as restitution in any companion or related civil or criminal prosecution. In the event of a violation of F.S. ch. 767, the animal's owner shall be subject to applicable criminal penalties in addition to any civil infraction. Further, nothing herein shall relieve the owner of civil liability for injuries or damage that result from actions or inactions that are violations of the provisions herein.~~

Sec. 5-72. Issuance of citation; show cause order.

~~A law enforcement or animal control officer who has probable cause to believe that a person has committed an act in violation of this article may issue a citation to the person. Such a citation may be contested in the county court. If a person fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the law enforcement or animal control officer. This order shall require such a person to appear before the court to explain why action on the citation has not been taken. If any person who is used~~

such an order fails to appear in response to the court's directive, that person may be held in contempt of court.

* * * *

~~Sec. 5-74. Maximum surcharge imposed for violation; use of proceeds.~~

~~A surcharge in the maximum amount permitted by state law shall be imposed upon each violator receiving a civil penalty. The proceeds shall be used to defray the costs for required training courses for animal control officers.~~

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or re-lettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

[Signature Page To Follow.]

PASSED AND ADOPTED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, THIS 4TH DAY OF SEPTEMBER 2019.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

Donald T. O'Brien Jr., Chair

Tom Bexley, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

Al Hadeed, County Attorney

**Flagler/Palm Coast
NEWS-TRIBUNE**

Published Each Wednesday
Flagler County, Florida

**State of Florida,
County of Flagler**

Before the undersigned authority personally appeared

Irene Zucker

who, on oath says that she is

LEGAL COORDINATOR

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

PUBLIC NOTICE

NT 2336458

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

AUGUST 7, 2019

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 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

Irene Zucker

Sworn to and subscribed before me

This 7TH of AUGUST

A.D. 2019

Cynthia Anderson

NOTICE BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION OF PROPOSED ORDINANCE TITLED SIMILAR TO: AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER FIVE OF THE COUNTY CODE OF ORDINANCES RELATED TO ANIMALS; AMENDING ARTICLE I, PROVIDING FOR PURPOSE AND DEFINITIONS; AMENDING ARTICLE II, PROVIDING FOR ANIMAL CONTROL AND ENFORCEMENT; AMENDING ARTICLE III, PROVIDING FOR TETHERING OF DOGS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

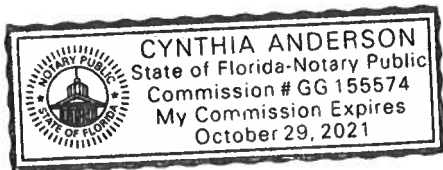
Public hearing on the above-captioned matter will be held as follows:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS - August 19, 2019 at 5:30 p.m. or as soon thereafter as possible in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, or telephone 386-313-4005 or write to: Flagler County Board of County Commissioners, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to danderson@flaglercounty.org. Staff reports and other pertinent information are available for review at the Flagler County Administration Office, 1769 East Moody Boulevard, Bldg. 2, Bunnell, Florida 32110.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT COUNTY ADMINISTRATION AT 386-313-4001 AT LEAST 48 HOURS PRIOR TO THE MEETING.

NT2336458 Aug. 7, 2019 It





AMERICAN
KENNEL CLUB

August 19, 2019

Members of the Flagler County Board of County Commissioners
1769 E. Moody Boulevard
Bunnell, FL 32110

RE: AKC's grave concerns with proposed animal ordinance

Dear Flagler County Commissioners,

On behalf of dog owners in Flagler County, the American Kennel Club writes to express grave concerns with a proposed animal ordinance and to respectfully ask that you do not advance this measure as written. Provisions of concern include, but are not limited to:

- Under the proposed ordinance, every dog and cat owner would be required at all times to have available for inspection an official health certificate for the dog or cat. An "official health certificate" is defined as a certificate signed by a veterinarian that states the animal has no contagious or infectious disease.

Generally, veterinary health certificates have an expiration date of between 10 to 30 days from date of issue. Therefore, not only would dog and cat owners be required to renew these certificates on an undetermined schedule, they would also be required to carry and show the certificates on demand.

- It would be a violation to fail to provide an animal with a continuous supply of fresh water. This provision does not consider the many circumstances wherein water might be offered to an animal on a non-continuous basis under accepted and humane animal husbandry protocols. These circumstances would include providing water to an animal on a schedule that maintains its health and hydration, carefully monitoring and controlling water intake when house training a puppy, restricting water until it cools out for a horse that has been ridden or free-exercised, withholding water from an animal under direction of veterinarian, and numerous other circumstances wherein "continuous" access to water is not in the animal's best interest.
- It reestablishes mandatory annual vaccinations for dogs and cats that are not in accordance with many current recommended veterinary protocols. No provision is provided for a differing schedule of vaccinations under the direction of a veterinarian.
- It seeks to enact tethering restrictions that do not consider humane and necessary uses of tethers. Please refer to "[The Question of Tethering](#)" for discussion.

Thank you for your consideration of these concerns. Please do not hesitate to contact me at 919-816-3645 or pvs@akc.org with questions or if I may be of assistance.

Sincerely,

Patty Van Sicklen
Regional Manager, AKC Government Relations

Founded in 1884, the American Kennel Club (AKC) is a non-partisan, not-for-profit purebred dog registry dedicated to promoting responsible dog ownership, advocating for dogs as family companions, advancing canine health and well-being, and working to protect the rights of all responsible dog owners. The AKC represents more than 5,000 dog clubs nationally, including 185 clubs in Florida. In 2018, the AKC licensed and sanctioned 992 events in Florida in which more than 160,000 dogs participated.

Founded in 1884; a not-for-profit corporation

Sassy's Story and the Question of Tethering

Question: What do these dog owners have in common?

- Owners who hike and camp with their dogs
- Owners in residential developments with architectural and fencing restrictions
- Disabled and blind owners
- Owners of working, herding, hunting, field trial and sled dogs
- Owners of escape-artist dogs

Answer: These and other good dog owners may choose to utilize tethering to provide their dogs with exercise and keep them safe.

Providing dogs with secure housing, exercise, playtime, and socialization is a concern for all owners. In recent years, tethering as a method of confinement for dogs has become a controversial topic, and numerous legislative proposals to ban or restrict tethering have been introduced in response to requests by anti-tethering activists and animal rights groups.

Supporters of such proposals often recycle appalling photos of dogs with bloody collars embedded in their necks and starving dogs on chains with no water or shelter. Pictures of such cruelty would horrify any dog lover.

But are tethering bans really the solution their supporters suggest? Laws in all 50 states already make it a crime to let a dog suffer injury from an imbedded collar or to fail to provide a dog with necessary food, water and proper shelter. A new ban on tethering is unlikely to impact the actions of lawbreakers who treat dogs cruelly in violation of existing laws. However, these proposals will adversely affect law-abiding citizens who use a variety of safe and accepted methods to humanely tether their dogs. *A better and more effective way to protect dogs from mistreatment is to ensure enforcement of cruelty and negligence laws, regardless of the method of confinement an owner chooses.*

Proposed anti-tethering laws are problematic for responsible owners who utilize tethering to improve the lives of their dogs. Consider the following:

Blind and disabled dog owners who don't have fenced yards or immediate access to dog parks. Should disabled persons be prevented from allowing their service dogs to enjoy outdoor playtime and off-duty relaxation via a tether?

Dog owners who hike and camp in parks where dogs must be restrained. Should these owners be forced to leave their dogs behind on these mutually-enjoyable adventures because they are not allowed to safely tether their dogs while resting on the trail or while in campsites?

Owners who live in residential developments where fences are prohibited or restricted to a height insufficient to safely contain a dog. Should their dogs be denied outdoor exercise and playtime on tethers?

Owners of hunting dogs, field trial dogs, and dogs properly conditioned to be humanely tethered outdoors in conjunction with training, hunting, and events.

Owners of sled dogs who use tethers and weatherproof dog houses to ensure the comfort and safety of sledding breeds that thrive in arctic climates.

And what about owners of escape-artist dogs? Not every owner is able to stay with their dogs 24-7. Dog owners have jobs, school, children, and other obligations. Tethering with proper access to shade, shelter, and water may keep an escape-artist dog safe when a fence does not.



Sassy is a “pit bull”. She lives in a quiet suburban neighborhood with a family of two adults, an 8-year-old boy, and a 10-year-old girl. Sassy spends most of her time inside with the family and sleeps at the foot of the bed.

Outside the downstairs family room is “Sassy’s Place”, a covered brick patio enclosed on three sides. Sassy’s Place has a ceiling fan, dog toys, a cushy dog bed, a bowl of fresh water, and a snug doghouse. Sassy can step off the covered patio onto the beautifully landscaped grass of the fenced backyard for a potty break or to catch some rays.

On weekday mornings, Sassy comes to the kitchen for breakfast, has a walk around the neighborhood (on leash, of course), then chases balls and flying discs in her fenced backyard. Her family leaves for work and school at 7:30 a.m. While they’re away, she spends her day in Sassy’s Place.

Her family returns home around 5:30 p.m. and their first priority is to greet Sassy, throw some balls for her, and bring her inside. She takes part in the family’s activities until bedtime. Sassy usually sleeps in the boy’s room, though sometimes she prefers the cool bathroom floor.

Sassy is a happy, healthy, well-adjusted, well-loved dog.

But Sassy’s days may be numbered—because Sassy’s owners use a tether to keep her safe when she’s in Sassy’s Place.

Continued next page

The issue is complex, and publications on tethering yield conflicting information. Proponents of anti-tethering laws often cite statistics that appear to indicate that tethered dogs are more likely to become aggressive. However, the conclusions about possible detrimental effects of tethering fail to isolate tethering as the direct cause of these problems. For example, was the dog's inappropriate behavior caused by the tether, or did it result from prior or concurrent neglect, abuse, teasing, or some other factor?

What do the experts say?

A Cornell University College of Veterinary Medicine study on sled dogs concluded that "our findings provide no evidence that tethering was any more or less detrimental to dog welfare than being housed in pens" and urged additional controlled studies.¹

The United States Department of Agriculture Animal and Plant Health Inspection Service (USDA/APHIS) prohibits facilities regulated under the Animal Welfare Act from using tethering as a means of primary enclosure for dogs unless approved in writing. This [rule was subsequently clarified](#) to recognize that under certain circumstances the use of tethering may be entirely appropriate and humane. APHIS additionally stated that the rule did not intend to imply that tethering of dogs under all circumstances is inhumane, nor that tethering under any circumstances must be prohibited.²

Both the American Kennel Club (AKC) and the American Veterinary Medical Association (AVMA) have issued policy statements regarding animal welfare and the humane care of dogs, and both strongly condemn neglect and cruelty. The AVMA has not issued a specific policy statement on tethering. AKC's statement can be viewed [here](#).

The AKC supports use of cruelty and negligence laws to address a broad range of issues of animal mistreatment regardless of the source. AKC advocates for proper care and humane treatment of dogs that include an adequate and nutritious diet, clean water, clean living conditions, regular veterinary care, kind and responsive human companionship, and training in appropriate behavior. The [AKC's Care and Conditions of Dogs Policy](#) states, among other provisions, that a dog's primary enclosure shall be constructed and maintained so that dogs are securely confined and does not cause injury to the dogs. Protection from adverse or extreme weather conditions must be provided. Dogs should have play and exercise on a daily basis and daily positive human contact and socialization.

The AVMA's Animal Welfare Division states, "The AVMA has not adopted specific policy on tethering as proposals to date have been based primarily on various groups and individuals' perspectives rather than on actual data, and because the conditions under which dogs may be tethered are so highly variable. The impacts of tethering on dogs have not been well quantified and appear to be substantially impacted by breed, environmental conditions (e.g., substrate, climate, and what is available to the dog to occupy its time), opportunities for contact with conspecifics and people, and the duration of time the dog is confined."

Responsible owners use a variety of creative indoor and outdoor solutions to care for their dogs. Dogs come in all shapes and sizes, and owners are encouraged to carefully evaluate each individual dog's age, health, coat type, conditioning, and unique characteristics when determining the best ways to provide housing, safe confinement, playtime, training, socialization and other care.

¹Seong C. Yeon, et.al. *A Comparison of Tethering and Pen Confinement of Dogs*, Journal of Applied Animal Welfare Science, (2001, Lawrence Earlbaum Associates, Inc.), 4(4), 257-270.

²Federal Register, Vol. 62, No. 186, Sep. 25, 1997, Rules and Regulations, 50244.

Continued from previous page

You see, Sassy is a skilled escape artist.

This is dangerous for any dog, and especially for a pit bull—a type of dog that suffers from many misconceptions.

Despite her owners' investment in a variety of fences, electronic confinement systems, and combinations thereof, Sassy continued to climb out, dig out, and defeat every boundary.

Sassy never went far. Neighbors said she just trotted around for a few minutes and then napped by the front door until her family got home. But during those few minutes of walk-about she was an at-large dog, which is against the law. And she wasn't safe.

What was her family to do? Doggie day care businesses in the community would not take a pit bull. Ten hours a day was too long to leave her in a crate. They tried letting her stay indoors and hired a dog walker to come in at midday. That worked for a few days, but then Sassy started tearing down draperies and destroying doorframes.

That's when the family tried tethering her in Sassy's Place. They carefully considered a safe length for the tether, made sure she would have shade, shelter and access to a potty area at all times of the day, and arranged it so she would not tangle with any impediments.

It worked. Sassy now stays safely tethered in Sassy's Place within the fenced backyard. Nothing is damaged, and Sassy is relaxed and ready to play when her family gets home.

But now the local county council is considering a tethering ban brought before them by a group of activists who claim that tethering is cruel and should be outlawed. A closer look at the proposal reveals that not only do the activists want to ban tethering; they also want to ban all unattended outdoor confinement of dogs, whether tethered or in fences.

So what will happen to Sassy? And to other dogs in the community? And to beloved dogs everywhere whose owners use tethers, pens, and fences to keep them safe?

These questions are being faced by dog owners across the U.S. as activists attempt to use legislation to impose their beliefs on others.



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AKC Government Relations
919-816-3720 • doglaw@akc.org
www.akc.org/government-relations



1255 23rd Street, NW
Suite 450
Washington, DC 20037
P 202-452-1100
F 202-778-6132
humanesociety.org

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August 29th, 2019

Flagler County Board of Commissioners
1769 E. Moody Boulevard
Bunnell, FL 32110

Dear honorable Commissioners,

On behalf of The HSUS and our supporters in Florida, thank you for considering improvements to Flagler County's ordinances to protect dogs who live outdoors. While our hope is that every dog would share a home with his or her human family, we understand that is not always the case and it is important that dogs who live outdoors be protected.

Dogs who are tethered or live predominantly outdoors are often victims of insufficient care, suffering from sporadic feedings, overturned water bowls, inadequate veterinary care, lack of exercise, and exposure to Florida's extreme weather. This upgraded ordinance provides clear expectations about pet care for both owners and law enforcement.

Dogs are social animals who thrive on interaction. A dog kept in one spot for months or years suffers immense psychological damage. Studies show that chained dogs are much more likely to bite than unchained dogs. *The Centers for Disease Control* concluded that the dogs most likely to attack are male, unneutered, and chained.

Chained dogs/dogs left outdoors are also often the source of nuisance complaints, impacting the quality of life for residents and the officers who respond to these calls.

More than 80 municipalities across our state have passed enhanced ordinances to protect dogs and I look forward to Flagler County joining the list. If we can be helpful along the way, please let me know. We are grateful for your consideration on this important issue.

Warmly,

Kate MacFall
Florida State Director
850-508-1001
kmacfall@humanesociety.org