



AGENDA
DANGEROUS DOG BOARD
CITY OF PORT ORANGE

Meeting Date: Tuesday, March 21, 2017

Time: 2:00 PM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Roll Call
2. Election of Chairperson
3. Delegation to approve meeting minutes

B. BOARD ATTORNEY - Overview of Board Hearing Process

1. Resolution No. 04-18
2. Code of Ordinances Sections 10-3 and 10-9
3. Florida Statute Chapter 767

C. PUBLIC HEARING

1. Daniel Cantrell
410 Live Oak Avenue
Daytona Beach, FL 32114
2. Jessica Zuelch
430 Leslie Drive
Port Orange, FL 32127

D. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **DANGEROUS DOG BOARD** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

RESOLUTION NO. 04-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING DANGEROUS DOG PROCEDURES FOR HEARINGS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has determined that there is a need to establish dangerous dog procedures for hearings; and

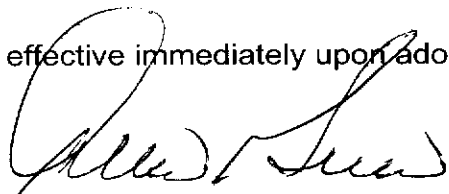
WHEREAS, the City staff has established dangerous dog hearing procedures pursuant to Florida Statutes 767.12(1)(c); and

WHEREAS, the City staff recommends that the City Council review and accept the dangerous dog hearing procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The Dangerous Dog Hearing Procedures, attached hereto as Exhibit A, are hereby approved.

Section 2. This resolution shall become effective immediately upon adoption.

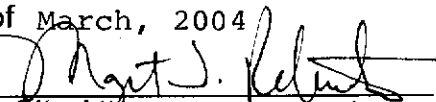


MAYOR ALLEN GREEN

ATTEST:


Kenneth W. Parker, City Manager

Adopted on the 2 day of March, 2004

Reviewed and Approved: 
City Attorney 2.20.04

City of Port Orange Dangerous Dog Hearing Procedures

1. After the Animal Control Officer has made a determination to classify a dog as dangerous, the Animal Control Officer shall provide written notification of the sufficient cause finding to the owner by registered mail, certified mail, hand delivery, or service in conformance with the provisions of Chapter 48, Florida Statutes, relating to service of process.
2. The owner may file a written request for a hearing within seven (7) calendar days from the date of receipt of the notification of sufficient cause finding.
3. The hearing shall be held before a three member panel. A veterinarian may be included as a member of the panel depending on availability. The members of the panel shall be persons who are experienced in hearing procedures, if possible. The panel members shall be selected by the City Manager, who may vary the composition from hearing to hearing.
4. Present at the hearing shall be a recording secretary who shall tape record the proceedings, the Animal Control Officer, and the owner of the dog. Any person who decides to appeal any decision made by the panel shall need a record of the proceedings, and for such purposes he or she shall need to ensure, at his or her own expense, the taking and preparation of a verbatim record of all testimony and evidence of the proceeding being appealed.
5. The owner may be represented by legal counsel at his or her own expense. The hearing shall be a public hearing.
6. The panel, before hearing commences, shall select a chairman. The Chairman shall preside over the hearing and control the hearing ensuring a fair and orderly process. The Chairman shall have the right to ensure that any evidence presented is relevant to the issue, and admit or exclude evidence subject to majority vote by the full panel. Further the Chairman will ensure that there are no personal attacks on any of the participants, and that the proceedings are orderly, and the Chairman may cause the removal of disorderly individuals from the hearing room.
7. The burden of proof shall be upon the Animal Control Officer, and he/she shall make the first presentation before the panel presenting the evidence as to why he/she has determined that the dog is dangerous. This evidence may include but is not limited to, the Animal Control Officer's direct observations, video taped evidence, testimony of neighbors or other individuals who have personnel knowledge of the situation.
8. All witnesses offering testimony shall be placed under oath or affirmation by a person duly authorized to administer oaths.

9. During the presentation of the Animal Control Officer's case, the owner may, after any witness have finished testifying and before they leave the witness chair, cross-examine the witness as to his or her testimony. Cross-examination is for the purpose of bringing out any inconsistencies or errors in the testimony of the witnesses.
10. After presentation by the Animal Control Officer, any member of the panel may ask relevant questions. The panel shall wait until the end of the initial presentation by Animal Control. The panel shall be a neutral fact finding body and shall not either advocate the Animal Control Officer's case or the animal owner's position.
11. After the Animal Control Officer has made the initial presentation then the dog's owner shall have an opportunity to make his or her presentation. The owner may present evidence demonstrating that the determination by the Animal Control Officer classifying the dog as dangerous is erroneous. The owner may present live testimony documentary evidence, or the testimony of other witnesses or persons who have personal knowledge of the particular situation.
12. After the dog's owner has finished presenting his or her case, the Animal Control Officer shall have the right to cross-examine the animal owner and the animal owner's witnesses. Thereafter, the Animal Control Officer shall have an opportunity to briefly rebut any issue raised by the owner not previously address by the Animal Control Officer.
13. This is not a formal court procedure, but rather an informal proceeding to ensure that a correct dangerous dog determination has been made.
14. After all the evidence is presented, the panel shall deliberate in public and shall reach a decision either finding that there is competent substantial evidence to uphold the determination by the Animal Control Officer that the dog is dangerous, or that there is not enough evidence to declare the dog dangerous. The panel shall prepare a written order setting forth brief findings of fact and conclusions of law.
15. After the order is entered, written notice of dangerous dog classification shall be provided to the owner by registered mail, certified, hand delivery, or service in conformance with chapter 48. After receipt the owner may file a written request for a hearing in the County Court to appeal the classification within ten (10) business days after receipt of written determination. The ten (10) business days exclude Saturday, Sunday and legal holidays. If the written request for a hearing is made after ten days the County Court will not hear it. If a timely appeal is made the dog owner shall ensure that the judge is provided a copy of the transcript and documentary evidence of the hearing.

Sec. 10-3. - Definitions.

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

Adult means six months of age or older.

Amphibian means any animal belonging to the class amphibia, including but not limited to frogs, toads, mud puppies, newts and salamanders.

Animal means any dumb living creature.

Animal control authority means the police chief of the city who is authorized to enforce the animal control laws and ordinances of the city, county or state.

Animal control officer means:

- (1) Any individual employed, contracted with or appointed by the animal control authority for the purpose of aiding in the enforcement of any law or ordinance relating to the licensure of animals, control of animals or seizure and impoundment of animals and includes any law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.
- (2) Any person employed or appointed by the city who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this chapter.

At large means off the premises of the owner and not under the physical control, custody, charge or possession of the owner or other responsible person by leash, cord, chain or fenced enclosure. A police dog or police horse, as defined in F.S. § 843.19, while in use by a law enforcement agency, shall not be deemed to be at large.

Bird means any animal belonging to the class aves, having both feathers and wings.

Cat means any domestic animal of the feline family, excluding related wild species such as panther, cougar, ocelot or leopard.

Citation means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. The citation must contain:

- (1) The date and time of issuance.
- (2) The name and address of the person.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The ordinance violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court as required by this chapter.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court as mandated by this chapter, he does not have the option of paying a fine in lieu of appearing in court.

Control means the regulation of the possession, ownership, care and custody of animals.

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

Dangerous dog means any dog that, according to the records of the city:

- (1) Has aggressively bitten, attacked or endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property;
- (3) Has been used primarily or in part for the purpose of dogfighting or is a dog trained for dogfighting; or
- (4) Has, when unprovoked, chased or approached a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the city.

Designee means any person designated by the animal control authority to act on behalf of such authority.

Dog means any domestic animal of the canine family, excluding related wild species such as wolf, jackal or fox.

Domestic animal means any equine or bovine animal, goat, sheep, swine, dog, cat, poultry or other domesticated beast or bird.

Domesticated means adapted to living comfortably, safely, humanely and healthfully with humans in a household environment.

Fur-bearer means any raccoon, opossum, skunk, nutria, beaver, coyote, fox, bobcat, otter, mink, weasel or round-tailed muskrat.

Humane society means a nonprofit corporation organized under the laws of the state which provides impoundment, boarding, placement and disposal services for animals.

Insecurely fenced property means real property that an animal can enter or leave by going over, under or through an existing fence.

Kenel means any premises, which provides facilities and/or service for the boarding, breeding, buying, grooming, rearing or selling of five or more adult animals or eleven or more nonadult animals and which may include the ancillary retail sales of pet supplies.

License tag means a city license tag issued pursuant to this chapter.

Licensed veterinarian means any person who is licensed to engage in the practice of veterinary medicine in the state under the authority of F.S. ch. 474.

Mammal means any animal belonging to the class mammalia, having hair and feeding their young on milk.

Neutered means permanent removal or disabling of an animal's reproductive function.

Nuisance means:

- (1) Disturbing the peace and quiet of any person by habitually or continuously barking, meowing, howling, crying, whining, screaming, squawking or making other bothersome noises for at least 15 minutes in duration;
- (2) Causing injury or threat of injury to any person by habitual or repeated running at large

or chasing of persons;

- (3) Creating obnoxious odors detectable off the premises of the owner by the condition of any animal or its confinement;
- (4) Causing damage or destruction or threat of damage or destruction to any property; or
- (5) Existing in an unsanitary condition.

Offer for sale means trade for money, gifts or other consideration.

Officer means any law enforcement officer defined in F.S. § 943.10 or any animal control officer.

Ordinance means any ordinance relating to the control of or cruelty to animals enacted by the city council, the violation of which is a civil infraction.

Owner means 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 18, that person's parent or guardian.

Passeriforme means an order of bird generally known as the songbird type, including but not limited to canaries, sparrows, finches, buntings, robins, and myna birds.

Pet store means any type of retail facility that is licensed by the city and that offers for sale animals, animal related food and accessories and/or same-day animal grooming services. On-site breeding of animals is prohibited.

Proper enclosure of a dangerous dog means that, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under or through the structure and shall also provide protection from the elements.

Psittaciforme means an order of birds generally known as the parrot or parakeet type, including but not limited to budgerigars, cockatoos, cockatiels, macaws, lorries, parakeets, parrots, and lovebirds.

Reptile means any animal belonging to the class reptilia, including but not limited to alligators, caimans, crocodiles, turtles, lizards and snakes.

Residential property means real property that is used primarily for residential purposes, or is located in an area which is predominantly developed for residential use. Zoning district classifications shall not exclusively determine the residential or nonresidential nature of the property. A property shall be considered residential in nature if the residential use is permitted within the zoning district, or if it is an existing legal nonconforming use.

Secure enclosure means:

- (1) A building such as the owner's dwelling; or
- (2) An enclosed and locked pen or structure with secure sides and a secure top, and which is anchored to a floor or other surface to prevent an animal from escaping over, under or through the structure.

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

Unprovoked means that the victim who has been conducting himself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

Unsanitary means a condition caused by a lack of necessary maintenance which may be unhealthy for animals or humans, attract flies and other pests, or be detrimental to the quality of life for animals or humans. Such condition may be evidenced by uncleanness, odors, urine or urine stains, rotting food or organic matter, stagnant water or accumulated feces.

Wildlife means any wild or nondomestic bird, mammal, fur-bearing animal, reptile or amphibian.

Wildlife rehabilitation center means a specialized facility issued a license or permit by the state for the treatment of sick and injured wildlife.

(Ord. No. 1992-31, § 4, 12-15-92; Ord. No. 1993-4, § 1, 3-16-93; Ord. No. 2003-7, § 1, 4-22-03)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-9. - Dangerous dogs.

- (a) The provisions of F.S. §§ 767.11—767.13 are hereby adopted by reference in this chapter. It is a violation of this chapter for any person to commit an act or omission, or cause an act to be committed, in violation of F.S. §§ 767.11—767.13.

- (b) In addition to a proper enclosure, a dangerous dog shall be confined:
 - (1) Inside a locked cage or animal carrier; or
 - (2) By a collar and tether.
 - (c) It is a violation of this chapter for the owner of a dangerous dog to refuse or fail to confine such animal as required by this section.
 - (d) It is a violation of this chapter for any person to release or remove a dangerous dog from a proper enclosure or any other confinement as required by this section.
- (Ord. No. 1992-31, § 10, 12-15-92)

DANGEROUS DOGS

767.10 Legislative findings.

767.11 Definitions.

767.12 Classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts.

767.13 Attack or bite by dangerous dog; penalties; confiscation; destruction.

767.135 Attack or bite by unclassified dog that causes death; confiscation; destruction.

767.136 Attack or bite by unclassified dog that causes severe injury or death; penalties.

767.14 Additional local restrictions authorized.

767.15 Other provisions of chapter 767 not superseded.

767.16 Police or service dog; exemption.

767.10 Legislative findings.—The Legislature finds that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of dangerous dogs.

History.—s. 1, ch. 90-180.

767.11 Definitions.—As used in this act, unless the context clearly requires otherwise:

(1) "Dangerous dog" means any dog that according to the records of the appropriate authority:

(a) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

(2) "Unprovoked" means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

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

(4) "Proper enclosure of a dangerous dog" means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements.

(5) "Animal control authority" means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county, or state. In those areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority under this act.

(6) "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

(7) "Owner" means 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 18, that person's parent or guardian.

History.—s. 2, ch. 90-180; s. 2, ch. 93-13; s. 1156, ch. 97-102; s. 1, ch. 2011-211.

767.12 Classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts.—

(1) An animal control authority shall investigate reported incidents involving any dog that may be dangerous and, if possible, shall interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.

(a) An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held. The animal may be held pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If the dog is to be destroyed, the dog may not be destroyed while an appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal pending any hearing or appeal.

(b) An animal that is the subject of a dangerous dog investigation which is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area. The animal shall be confined in such manner pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The address at which the animal resides shall be provided to the animal control authority. A dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If a dog is to be destroyed, the dog may not be relocated or its ownership transferred.

(2) A dog may not be declared dangerous if:

(a) The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member.

(b) The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(3) After the investigation, the animal control authority shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and, if sufficient cause is found, as to the appropriate penalty under subsection (5). The animal control authority shall afford the owner an opportunity for a hearing prior to making a final determination regarding the classification or penalty. The animal control authority shall provide written notification of the sufficient cause finding and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformance with the provisions of chapter 48 relating to service of process. The owner may file a written request for a hearing regarding the dangerous dog classification, penalty, or both, within 7 calendar days after receipt of the notification of the sufficient cause finding and proposed penalty. If the owner requests a hearing, the hearing shall be held as soon as possible, but not later than 21 calendar days and not sooner than 5 days after receipt of the request from the owner. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the animal control authority as to such matter shall become final. Each applicable local governing authority shall establish hearing procedures that conform to this subsection.

(4) Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (3), the animal control authority shall provide a written final order to the owner by registered mail, certified hand delivery or service. The owner may appeal the classification, penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure after receipt of the final order. If the dog is not held by the animal control authority, the owner must confine the dog in a securely fenced or enclosed area pending resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this subsection.

(5)(a) Except as otherwise provided in paragraph (b), the owner of a dog classified as a dangerous dog shall:

1. Within 14 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and renew the certificate annually. Animal control authorities are authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:

- a. A current certificate of rabies vaccination for the dog.
- b. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property.
- c. Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

The appropriate governmental unit may impose an annual fee for the issuance of certificates of registration required by this section.

2. Immediately notify the appropriate animal control authority when the dog:

- a. Is loose or unconfined.
- b. Has bitten a human being or attacked another animal.
- c. Is sold, given away, or dies.
- d. Is moved to another address.

Before a dangerous dog is sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The new owner must comply with all of the requirements of this section and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state. The animal control officer must be notified by the owner of a dog classified as dangerous that the dog is in his or her jurisdiction.

3. Not permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under 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 will prevent it from biting a person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

(b) If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner.

(6) Hunting dogs are exempt from this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials,

conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from this section when engaged in any legal procedures. However, such dogs at all other times in all other respects are subject to this and local laws. Dogs that have been classified as dangerous may not be used for hunting purposes.

(7) A person who violates any provision of this section commits a noncriminal infraction, punishable by a fine not to exceed \$500.

History.—s. 3, ch. 90-180; s. 3, ch. 93-13; s. 3, ch. 94-339; s. 1157, ch. 97-102; s. 2, ch. 2016-16.

767.13 Attack or bite by dangerous dog; penalties; confiscation; destruction.—

(1) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under s. 767.12. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(2) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under s. 767.12. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(3) If the owner files a written appeal under s. 767.12 or this section, the dog must be held and may not be destroyed while the appeal is pending.

(4) If a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime specified under this section.

History.—s. 4, ch. 90-180; s. 4, ch. 93-13; s. 4, ch. 94-339; s. 3, ch. 2016-16.

767.135 Attack or bite by unclassified dog that causes death; confiscation; destruction.—

If a dog that has not been declared dangerous attacks and causes the death of a human, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under s. 767.12. If the owner files a written appeal under s. 767.12 or this section, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

History.—s. 4, ch. 90-180; s. 4, ch. 93-13; s. 4, ch. 94-339; s. 3, ch. 2016-16.

Note.—Former s. 767.13(2).

767.136 Attack or bite by unclassified dog that causes severe injury or death; penalties.—

(1) If a dog that has not been declared dangerous attacks and causes severe injury to, or the death of, a human, and the owner of the dog had knowledge of the dog's dangerous

propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) If the dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner of the dog is not guilty of any crime under this section.

History.—s. 4, ch. 2016-16.

767.14 Additional local restrictions authorized.—This act does not limit any local government from adopting an ordinance to address the safety and welfare concerns caused by attacks on persons or domestic animals, placing further restrictions or additional requirements on owners of dogs that have bitten or attacked persons or domestic animals, or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed and that the provisions of this act are not lessened by such additional regulations or requirements. This section does not apply to any local ordinance adopted prior to October 1, 1990.

History.—s. 5, ch. 90-180; s. 5, ch. 2016-16.

767.15 Other provisions of chapter 767 not superseded.—Nothing in this act shall supersede chapter 767, Florida Statutes 1989.

History.—s. 6, ch. 90-180.

767.16 Police or service dog; exemption.—

(1) Any dog that is owned, or the service of which is employed, by a law enforcement agency, is exempt from this part.

(2) Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human is exempt from any quarantine requirement following such bite if the dog has a current rabies vaccination that was administered by a licensed veterinarian.

History.—s. 1, ch. 91-228; s. 6, ch. 2016-16.

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

CASE NUMBER# 170001386

OWNER'S NAME: Jessica Zueich

ADDRESS: 430 Leslie Drive

CITY: Port Orange STATE: Florida ZIP: 32127

TELEPHONE: 386 675-5705

DOG NAME: Dakota SEX: F AGE: 3 years

BREED/DESCRIPTION: Am staff mix Brown/white

VETERINARIAN NAME AND

ADDRESS: Newman's 1130 Beville Rd Daytona Beach, FL

TELEPHONE: _____ RABIES VACCINATION: HHS

ASSIGNED TATTOO#: Microchip 982000362860392

Florida State Statute(s) relating to animal (circle all that apply):

- ☒ 767.11(a) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- ☐ 767.11(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or
- ☒ 767.11(c) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority

Proposed Penalty: Strict compliance with Section 767.12(5)(a)

OWNER'S SIGNATURE: Jessica Zueich DATE: 3/4/17

NOTARY or LAW ENFORCEMENT

OFFICER: Jennifer S. Marcus ID#: 4294

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

Animal control has found sufficient cause to make an initial determination to classify your dog as dangerous. It is requested by the Port Orange Police Department that you read the attached item(s) and comply with the guidelines set forth by the Florida Statutes and the Port Orange Code of Ordinances relating to dangerous dogs. The animal control officer has obtained sworn affidavits from individuals in accordance with Section 767.12, Florida Statutes. The affidavits are attached hereto.

Section 767.11, Florida Statutes, defines a dangerous dog as a dog that: (1) has aggressively bitten, attacked, or endangered, or has inflicted severe injury on a humane being on public or private property; (2) has more than once severely injured or killed a domestic animal while off the owner's property; or (4) has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by animal control.

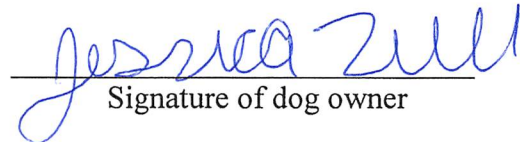
You are being provided a copy of Chapter 767, Part II, Florida Statutes and the Port Orange Code of Ordinances (Section 10-9) pertaining to dangerous dog classification, procedures, and requirements of owners who have dangerous dogs, and the penalties if the dog escapes or bites after the classification.

You have the right to request a hearing prior to final determination of the dangerous dog classification. **Written request for a hearing shall be made within seven (7) days of receipt of this notice.** Your request must be filed with the City Clerk within the seven (7) day period at the following address: City Clerk, City of Port Orange 1000 City Center Circle, Port Orange, Florida 32129.

Time and dates for the hearing will be determined and set by the City Clerk. The hearing will be held no sooner than five (5) days after the receipt of your request for hearing and no later than twenty-one (21) days from the date of your request for hearing. You will be notified of the hearing by registered mail or hand delivery. You will also be provided with a copy of hearing procedures. If no hearing is requested within the seven (7) day period, a final determination of dangerous dog will be made. Pending any hearing or appeal, the dog must be securely fenced or confined in a closed area, and may not be relocated or its ownership transferred.

Sworn to me this 4 day of March 2017


Signature of Officer & ID number


Signature of dog owner

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

CASE NUMBER# 17000 1386

OWNER'S NAME: Daniel Cantrell

ADDRESS: ~~430 Leslie Drive~~ 410 Live Oak Ave, Daytona Beach
32114

CITY: Port Orange STATE: Florida ZIP: 32127

TELEPHONE: 386 307-9003

DOG NAME: Muddy SEX: M AGE: 6

BREED/DESCRIPTION: American Staffordshire Mix

VETERINARIAN NAME AND

ADDRESS: Driftwood 932 Mason Avenue Daytona Beach

TELEPHONE: 386 255 1407 RABIES VACCINATION: 3/15/15 & 3/7/17

Microchip
ASSIGNED TATTOO#: OA13487E0B

Florida State Statute(s) relating to animal (circle all that apply):

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Proposed Penalty: Strict compliance with Section 767.12(5)(a)

OWNER'S SIGNATURE: [Signature] DATE: 3/7/17

NOTARY or LAW ENFORCEMENT

OFFICER: [Signature] ID#: 4294

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

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Sworn to me this 7 day of March 2017

Joseph J. Marscu #4294
Signature of Officer & ID number

X [Signature]
Signature of dog owner

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

CASE NUMBER# 170001386

OWNER'S NAME: Jessica Zueich

ADDRESS: 430 Leslie Drive

CITY: Port Orange STATE: Florida ZIP: 32127

TELEPHONE: 386 675-5705

DOG NAME: Dakota SEX: F AGE: 3 years

BREED/DESCRIPTION: Am staff mix Brown/White

VETERINARIAN NAME AND

ADDRESS: Newman's 1130 Beville Rd Daytona Beach, FL

TELEPHONE: _____ RABIES VACCINATION: HHS

ASSIGNED TATTOO#: Microchip 982000362860392

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Proposed Penalty: Strict compliance with Section 767.12(5)(a)

OWNER'S SIGNATURE: Jessica Zueich DATE: 3/4/17

NOTARY or LAW ENFORCEMENT

OFFICER: Jennifer S. Marcus ID#: 4294

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

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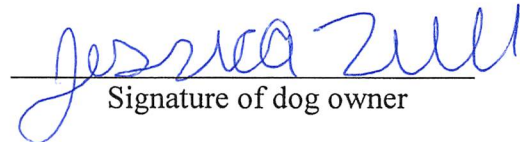
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Sworn to me this 4 day of March 20 17


Signature of Officer & ID number


Signature of dog owner

Department of Animal Control
Notice of Intent to
Classify Your Animal as a Dangerous Dog

CASE NUMBER# 17000 1386

OWNER'S NAME: Daniel Cantrell

ADDRESS: ~~430 Leslie Drive~~ 410 Live Oak Ave, Daytona Beach
32114

CITY: Port Orange STATE: Florida ZIP: 32127

TELEPHONE: 386 307-9003

DOG NAME: Muddy SEX: M AGE: 6

BREED/DESCRIPTION: American Staffordshire Mix

VETERINARIAN NAME AND

ADDRESS: Driftwood 932 Mason Avenue Daytona Beach

TELEPHONE: 386 255 1407 RABIES VACCINATION: 3/15/15 & 3/7/17

Microchip
ASSIGNED TATTOO#: OA13487E0B

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Proposed Penalty: Strict compliance with Section 767.12(5)(a)

OWNER'S SIGNATURE: [Signature] DATE: 3/7/17

NOTARY or LAW ENFORCEMENT

OFFICER: [Signature] ID#: 4294

Department of Animal Control
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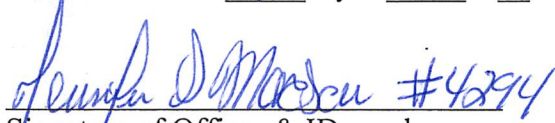
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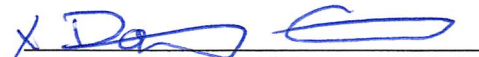
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Sworn to me this 7 day of March 2017


Signature of Officer & ID number #4294


Signature of dog owner