

**ORDINANCE NUMBER 2010-\_\_\_\_**

**AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING VOLUME 1, ARTICLE I, CHAPTER 10, SECTION 10-3 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES REGULATING COUNTY ANIMAL CONTROL; AMENDING VOLUME 1, ARTICLE I, CHAPTER 10, SECTION 10-16 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES REGULATING COUNTY ANIMAL CONTROL; PROVIDING FOR DEFINITIONS OF SHELTER AND TETHER; AMENDING THE CRUELTY TO ANIMALS PROVISION TO PROVIDE RESTRICTIONS ON TETHERING ANIMALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the authority of F.S. Ch. 125 and 828, and Laws of Florida, Ch. 90-180, the County is authorized to establish regulations in the interest of the public health, safety and welfare to provide protection for, regulate, and control animals in the County; and

**WHEREAS**, the Board of County Commissioners finds that the County's ordinances regulating County animal control require amendment to better ensure the well being of the public; and

**WHEREAS**, the Board of County Commissioners further finds that the proposed amendment modifying the provision pertaining to animal cruelty to include restrictions on tethering animals serves an important public purpose.

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

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

**Sec. 10-3. Definitions.**

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

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

*Animal* means every living dumb creature.

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

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

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

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

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

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

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

*Dangerous or vicious animal* means any animal which shall bite or in any manner attack or attempt to attack or kill any person or domestic animal, shall be deemed a dangerous and vicious animal, except that no animal shall be deemed dangerous or vicious if any person or domestic animal is unlawfully upon the owner's or keeper's premises. Any dog that has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting shall be deemed as a dangerous or vicious animal.

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

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

*Impounding officer* means the county administrator or his designee.

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

*Livestock officer* means the sheriff or his designee.

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

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

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

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

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

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

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

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

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

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

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

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

- 1) The species *Homo sapiens* (human beings).
- 2) The species *Canis familiaris* (domestic dogs, including hybrids with wolves, coyotes, or jackals).
- 3) The species *Felis catus* (domestic cats, excluding hybrids with ocelots or margays).
- 4) The species *Equus caballus* (domestic horses).
- 5) The species *Equus asinus* (asses/donkeys).
- 6) The species *Bos taurus* (cattle).
- 7) The subspecies *Ovis ammon aries* (sheep).
- 8) The species *Capra hircus* (goats).
- 9) The subspecies *Sus scrofa domestica* (swine).
- 10) Domesticated races of the species *Gallus gallus* or *Meleagris gallopavo* (poultry).
- 11) Domesticated races of the species *Mesocricetus auratus* (golden hamsters).
- 12) Domesticated races of the subspecies *Cavia aperea procellus* (guinea pigs).
- 13) Domesticated races of rats or mice (white or albino, trained, laboratory-reared).

- 14) Domesticated races of the species *Oryctolagus cuniculus* (rabbits).
- 15) All captive-bred members of the species of the families Psittacidae (parrots, parakeets), Anatidae (ducks), Fringillidae (finches), and Columbidae (doves and pigeons).
- 16) All captive-bred members of the species *Serinus canaria* of the class Aves (canaries).
- 17) Domesticated races of the species *Carassius auratus* (goldfish).
- 18) Captive-bred members of the superorder Teleostei of the class Osteichthyes (common aquarium fish).

**Section 2.** Article I, Chapter 10, Section 10-16 of the Escambia County Code of Ordinances is hereby amended to read as follows:

**Sec. 10-16. Cruelty to Animals.**

- (a) It shall be unlawful for any owner or person to be cruel to an animal by cruelly beating, torturing, mutilating, clearly failing to provide food, drink or shelter, ventilation, exercise, necessary veterinary care or to abandon animals.
- (b) It shall be unlawful for any owner or person in possession of an animal or who has charge or custody of an animal to suffer injury or malnutrition or to abandon any animal in a street, road, or public place without providing for the care, sustenance, protection and shelter of such animal, or to impound or confine any animal in a place or enclosure without supplying such animal with a sufficient quantity of good and wholesome food and water and air, during such period of confinement, or to abandon any animal that is maimed, sick, infirmed, or diseased. In addition, the provisions of F.S. § 828.13 are hereby adopted and such prohibitions as contained therein are incorporated by reference.
- (c) It shall be unlawful for any person who shall have knowledge that an animal was struck by a vehicle under the person's control, to fail to render first aid to such animal by taking it to a veterinarian or by notifying either the owner, the animal control division, or the police or the sheriff.
- (d) It shall be unlawful for any person to transport any dog or other animal in a motor vehicle on any public street, when such animal is not fully enclosed within the vehicle or confined in a container, cage or like enclosure, or temporarily secured or ~~tethered~~ in a manner that will prevent the animal from falling or jumping from the vehicle.
- (e) It shall be unlawful for any owner or person in possession of an animal and who confines the animal outdoors on private property to tie, chain or otherwise tether an animal that is under the age of six (6) months.

(f) It shall be unlawful for any owner or person in possession of an animal and who confines the animal outdoors on private property to tie, chain or otherwise tether an animal that is over the age of six (6) months except when the following conditions are met:

a) the animal is in the visual range of the responsible party or the responsible party is located outdoors with the animal;

b) the tether shall—i) be a minimum of six (6) feet in length or at least five (5) times the length of the animal when measured from the tip of the animal's nose to the base of the tail, whichever is longer, ii) terminate at both ends with a swivel, and iii) not weigh more than 1/16 of the animal's weight;

c) an overhead pulley/running line shall—i) be that is at least fifteen (15) feet in length and ii) no less than seven (7) feet above the ground;

d) the tether must be fastened to a properly fitting body harness or buckle-type collar made of nylon or leather;

e) the tether shall be free from entanglement or other obstructions at all times;

f) the animal shall have access to potable water, food, shelter and dry ground at all times;

g) an animal shall not be tethered while sick, injured or in distress;

h) an animal shall not be tethered outside during a period of extreme weather, including but not limited to, extreme heat, extreme cold, thunderstorms, tornadoes, tropical storms, or hurricanes; and

i) multiple animals must be tethered separately.

(eg) Any person cruel to an animal as provided in this section shall be in violation of this chapter and punished as provided in section 10-23.

### **Section 3. 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 4. Inclusion in the Code.**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word

"ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**Section 5. Effective Date.**

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

DONE AND ENACTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

BOARD OF COUNTY COMMISSIONERS  
ESCAMBA COUNTY, FLORIDA

\_\_\_\_\_  
Grover C. Robinson, IV, Chairman

ATTEST: ERNIE LEE MAGAHA  
Clerk of the Circuit Court

\_\_\_\_\_  
Deputy Clerk

(Seal)

This document approved as to form  
and legal sufficiency.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Enacted: \_\_\_\_\_

Filed with Department of State: \_\_\_\_\_

Effective: \_\_\_\_\_