

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

ORDINANCE NO. 2008-13

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, CHAPTER 14, ARTICLE II, "ANIMAL CONTROL"; AMENDING SECTION 14-31, "DEFINITIONS" TO PROVIDE FOR DEFINITIONS; AMENDING SECTION 14-38, "IMPOUNDMENT" RELATING TO REDEMPTION OF DOGS AND CATS; CREATING SECTION 14-58, "MANDATORY SPAY AND NEUTER" TO PROVIDE FOR SPAY AND NEUTER REQUIREMENT FOR DOGS AND CATS; PROVIDING FOR EXCEPTIONS TO SPAY AND NEUTER REQUIREMENT AND UNALTERED ANIMAL PERMIT; PROVIDING FOR REVOCATION OF UNALTERED ANIMAL PERMIT AND PENALTIES FOR VIOLATIONS; AMENDING SECTION 14-57, "HEARING OFFICER" TO PROVIDE FOR AUTHORITY TO CONDUCT REVOCATION HEARINGS; PROVIDING FOR REPORT TO COUNTY COUNCIL; AUTHORIZING INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

38 **WHEREAS**, in 2007, the Halifax Humane Society sheltered 16,754 dogs and cats
39 and 11,762 were euthanized, 2,900 were adopted and 1,164 were returned to owners;

40 **WHEREAS**, the Southeast Volusia Humane Society sheltered 4,058 dogs and
cats and 3,319 were euthanized, 401 adopted and 307 returned to owners;

1 **WHEREAS**, 4,996 dogs and cats impounded originated from the unincorporated
2 area;

3 **WHEREAS**, the County Council hereby declares it to be the public policy of the
4 County of Volusia that every feasible means of reducing the number of unwanted dogs
5 and cats be encouraged; and

6 **WHEREAS**, the County Council hereby finds that this ordinance furthers the
7 health, safety, and welfare of the citizens and animals of Volusia County.

8 BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
9 FLORIDA, AS FOLLOWS:

10
11 (Words in ~~strike-through~~ type are deletions; words in underscore type are
12 additions.)

13
14 **SECTION I:** Chapter 14, Article II, Section 14-31, of the Code of Ordinances of
15 the County of Volusia is amended to read as follows:

16 **Sec. 14-31. Definitions.**

17 ...

18 Harbor means to own, keep, or provide care, shelter, protection, refuge, or
19 nourishment to a dog or cat.

20 ...

21 Microchip or electronic implantation means an electronic animal identification
22 device (EAID).

23 ...

24 Neuter means the medical procedure of rendering a male dog or cat permanently
25 incapable of breeding.

26 ...

1 Owner means any person, firm, corporation, humane society, public or private
2 nonprofit organization who harbors a dog or cat. If the person purporting to own a dog or
3 cat is a minor, as defined by Florida Statutes, the minor's parent(s) or legal guardian shall
4 be deemed the owner of the dog or cat for purposes of this chapter.

5 ...

6 Service animal means a dog or cat meeting the definition of service animal in 28
7 C.F.R. § 36.104 and Section 413.08(1)(d), Florida Statutes.

8 ...

9 Spay means the medical procedure of rendering a female dog or cat permanently
10 incapable of breeding.

11 ...

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

13 ...

14 **SECTION II:** Chapter 14, Article II, Section 14-38, of the Code of Ordinances
15 of the County of Volusia is amended to read as follows:

16 **Sec. 14-38. Impoundment.**

17 ...

18 (b) Redemption of impounded animals.

19 ...

20 (4) Any dog or cat impounded in accordance with this Section shall be spayed
21 or neutered or the owner shall obtain an unaltered animal permit for that dog or cat within
22 30 days of being redeemed unless the owner has previously obtained an unaltered animal
23 permit for that dog or cat in accordance with Section 14-58. Documentation evidencing

1 completion of the spay or neuter procedure shall be provided to the animal control
2 division within this 30 day period. Any application for an unaltered animal permit filed
3 to satisfy the terms of this section shall be filed with the animal control division within 72
4 hours of the dog or cat being redeemed.

5 ...

6 **SECTION III:** Chapter 14, Article II, Section 14-58, of the Code of Ordinances
7 of the County of Volusia is created to read as follows:

8 **Sec. 14-58. Mandatory Spay and Neuter.**

9 (a) Purpose.

10 The County has determined that the unintended or uncontrolled breeding of dogs
11 and cats within the county leads to many dogs, cats, puppies, and kittens being
12 unwanted, becoming strays, suffering privation and death, being impounded and
13 euthanized at great expense to the community, and constituting a public nuisance
14 and public health hazard. It is, therefore, declared that every feasible means of
15 reducing the number of unwanted dogs, cats, puppies, and kittens be encouraged.

16 (b) Spaying, neutering of dogs and cats.

17 (1) Requirement. No person may harbor a dog or cat six (6) months of
18 age or older within the unincorporated areas of Volusia County that has
19 not been spayed or neutered unless such person holds an unaltered animal
20 permit for each unaltered dog or cat, unless the dog or cat is otherwise
21 exempt under this section.

22 (2) Unaltered animal permit.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

a. Qualifications. An owner of an unaltered dog or cat shall qualify for an unaltered animal permit if one of the following is satisfied:

i. Shows and competitions. The dog or cat is used to show, to compete or to breed, which is of a breed recognized by and registered with the American Kennel Club (AKC), United Kennel Club (UKC), American Dog Breeders Association (ADBA), Cat Fanciers' Association (CFA) or other bona fide registry and meets one of the following requirements:

1. The dog or cat has competed in at least one show or sporting competition sanctioned by a bona fide national registry within the last 365 days;

2. The dog earned conformation, obedience, agility, carting, herding, hunting, protection, rally, sporting, working or other title from a purebred dog registry referenced above or other registry or dog sport association; or

3. The owner of the dog or cat is a member of and the dog or cat is registered with a bona fide purebred dog breed club or cat fancier's association which maintains and enforces a code of ethics for dog or cat breeding that includes restrictions from breeding dogs or cats with genetic defects and life threatening health problems that commonly threaten the breed or the owner

1 signs a statement under oath attesting that the dog or cat is being
2 trained to comply with section 14-58(b)(2)(a)(i)(1) or (2).

3 ii. *Medical Fitness.* A veterinarian licensed in the
4 State of Florida certifies in writing that a dog or cat is medically
5 unfit to undergo the required spay or neuter procedure because of a
6 medical condition, including but not limited to age, would be
7 substantially aggravated by the procedure or would likely result in
8 the death of the dog or cat. The certification must state the date, if
9 any, by which the dog or cat may be spayed or neutered. As soon
10 as the medical condition that prevents a dog or cat from being
11 spayed or neutered ceases to exist, it shall be the duty of the owner
12 to have it spayed or neutered within thirty (30) days.

13 iii. *Law enforcement.* The dog is currently used by a
14 law enforcement agency for law enforcement purposes or is part of
15 a bona fide law enforcement animal breeding program.

16 iv. *Service animals.* A dog or cat that is a service
17 animal as defined in Section 14-31 or is part of a bona fide service
18 animal breeding program.

19 v. *Breeders.* The owner demonstrates to the animal
20 control division proof of a breeding contract for a particular dog or
21 cat, membership in a bona fide national, state or local organization
22 for the perpetuation of a given breed of dog or cat or proof of a

1 litter produced by breeding of the dog or cat within the last 365
2 days.

3 vi. *Hunting and Herding Dogs.* The dog is currently
4 used as or trained to be a hunting or herding dog and the dog is
5 registered with a bona fide national, state or local hunting or
6 herding dog association. Alternatively, the owner of the dog signs
7 a statement under oath attesting that the dog is used, trained, or
8 will be trained to be a hunting or herding dog.

9 None of the aforementioned qualifications shall be construed to
10 authorize the breeding or harboring of dogs or cats in violation of
11 the Zoning Code, County of Volusia or exempt the owner or his
12 dog or cat from any other provision of this chapter.

13 b. *Deadline.* A dog or cat governed by this section
14 shall be spayed or neutered by its owner or, if eligible, the owner
15 shall obtain an unaltered animal permit within thirty (30) days of
16 the dog or cat becoming six (6) months of age or, by September 1,
17 2008, whichever is later in time, or, in the case of an owner whom
18 acquired a dog or cat after it becoming six (6) months of age, thirty
19 (30) days of acquisition.

20 c. *Microchipping.* As a condition to obtaining an unaltered
21 animal permit, an eligible dog or cat must be implanted with an
22 identifying microchip and the owner must provide the microchip

1 number to the animal control division. This requirement shall not
2 apply to herding dogs.

3 d. *Place of residence.* The address of the owner shall be
4 presumed to be the residence of the dog or cat. All changes of
5 address must be reported to the animal control division within
6 thirty (30) calendar days following such change.

7 e. *Change in ownership.* A permit holder shall notify the
8 animal control division and the national registry applicable to the
9 implanted microchip in writing of any change in ownership of a
10 dog or cat within thirty (30) calendar days.

11 f. *Term of permit.* An unaltered animal permit shall be valid
12 for the life of the dog or cat.

13 g. *Revocation.* Upon receipt of information of violation of
14 this section, the animal control division may issue a notice of
15 revocation to a permit holder. The notice of revocation shall
16 provide a summary of the information of the violation and shall be
17 sent by certified mail, return receipt requested, by hand delivery by
18 the sheriff or animal control officer or upon posting of the property
19 at the address listed in the permit application. Any request for
20 hearing shall be filed by the permit holder with the animal control
21 division within 10 days after the permit holder's receipt of said
22 notice. The permit holder shall set forth the reasons why the
23 permit holder believes the revocation would be an error. Failure to

1 timely request a hearing shall render the revocation final. All
2 hearings shall be conducted by the hearing officer within 30 days
3 after the receipt of a request for hearing and in accordance with
4 Section 14-57. The original of the hearing officer's written
5 decision shall be filed with the animal control division, and copies
6 shall be mailed to the county attorney and the permit holder.

7 h. *Penalty.* Any person who violates any provision of this
8 section is subject to the enforcement procedures of Section 14-39
9 and penalties prescribed in Section 14-32. These penalties shall
10 not preclude the issuance of a notice of revocation to a holder of an
11 unaltered animal permit for violations of this section.

12 (3) *Exemptions.* A dog or cat that meets the following criteria shall be
13 exempt from this section and not be required to obtain an unaltered animal
14 permit:

15 a. A dog or cat temporarily harbored within the
16 unincorporated areas of Volusia County for less than 120 days within any
17 calendar year.

18 b. The dog or cat is being harbored by a lawful humane
19 society/animal shelter under the provisions of the Zoning Code of Volusia
20 County, Florida, whether public or private, whose principal purpose is
21 securing the adoption of dogs or cats or offering sanctuary for dogs or cats
22 and certifies in writing to the animal control division that it does not

1 engage in the breeding of dogs or cats, provided that the requirements of
2 Section 823.15, Florida Statutes, are satisfied.

3 **SECTION IV:** Chapter 14, Article II, Section 14-57, of the Code of Ordinances
4 of the County of Volusia is amended to read as follows:

5 **Sec. 14-57. Hearing Officer.**

6 (a) *Appointment of hearing officer.* The county shall appoint and retain one
7 or more hearing officers to:

8 (1) Conduct hearings and make determinations arising out of requests
9 for hearing by recipients of notices of revocation of hobby breeder permits
10 in accordance with Section 14-56; and

11 (2) Hold hearings and make determinations regarding dangerous dog
12 classifications pursuant to F.S. § 767.12, or its successor, and this article
13 and regarding dog confiscations for destruction pursuant to F.S. § 767.13,
14 or its successor, and this article; and

15 (3) Conduct hearings and make determinations arising out of requests
16 for hearing by recipients of notices of revocation of unaltered animal
17 permits in accordance with Section 14-58.

18 ...

19 **SECTION V:** **REPORT TO COUNCIL** – The County Manager shall
20 report to the County Council on the operational and fiscal impact of this ordinance on
21 September 1, 2009 or as soon thereafter as practicable.

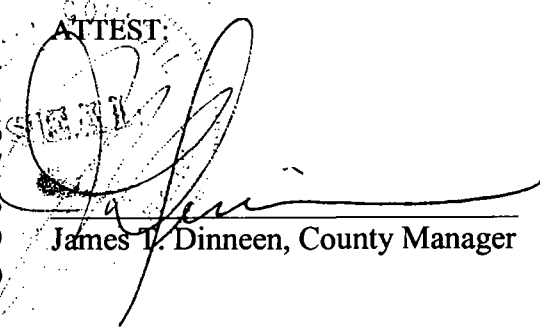
1 **SECTION VI:** AUTHORIZING INCLUSION IN CODE - The provisions
2 of this ordinance shall be included and incorporated into the Code of Ordinances of the
3 County of Volusia, as additions or amendments thereto, and shall be appropriately
4 renumbered to conform to the uniform numbering system of the code.

5 **SECTION VII:** SEVERABILITY - Should any word, phrase, sentence,
6 subsection or section be held by a court of competent jurisdiction to be illegal, void,
7 unenforceable, or unconstitutional, then that word, phrase, sentence, subsection or section
8 so held shall be severed from this ordinance and all other words, phrases, sentences,
9 subsections, or sections shall remain in full force and effect.

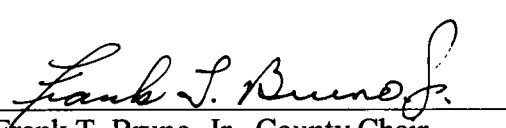
10 **SECTION VIII:** CONFLICTING ORDINANCES - All ordinances, or part
11 thereof, in conflict herewith are, to the extent of such conflict, repealed.

12 **SECTION IX:** EFFECTIVE DATE - A certified copy of this Ordinance
13 shall be filed with the Department of State by the County Manager within ten (10) days
14 after enactment by the County Council and this Ordinance shall take effect on September
15 1, 2008.

16 ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
17 FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL
18 CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123
19 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS 5TH DAY OF JUNE A.D.,
20 2008.

21
22
23 ATTEST:
24 
25
26
27
28 James T. Dinneen, County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA


Frank T. Bruno, Jr., County Chair