

SPONSORED BY:

Councilor Diamond



ORDINANCE NO. 2017-19

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 6, ANIMALS; ARTICLE I, SECTION 6-14 CLASSIFICATION OF DOGS AS DANGEROUS; CERTIFICATION OF REGISTRATION; NOTICE AND HEARING REQUIREMENTS; CONFINEMENT OF ANIMAL; EXEMPTION; APPEALS; UNLAWFUL ACTS AND PROVIDING AN EFFECTIVE DATE.

Whereas, the City Council of the City of Neptune Beach, Florida has determined that it is necessary to amend Chapter 6 as set forth below.

Now, therefore, be it ordained by the City Council of Neptune Beach, Florida:

Sec. 6-14. - Classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts.

(a) Generally.

The threat, injury, or damage caused by the animal must be minor in nature for this section to apply. If the injury is severe, section 6-15 shall be applicable.

(b) Classification.

(1) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person or domestic animal that was unlawfully on the property of the owner of the dog in question. A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person, who was lawfully on the property of the owner of the dog in question, but was tormenting, abusing, or otherwise assaulting the dog or a human being.

(2) An animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any Animal Control Officer or enforcement officer, desiring to have a dog classified as dangerous. The interviewing officer shall also ensure that the owner has obtained the appropriate rabies inoculation licensure. Any animal that is the subject of a dangerous dog investigation may be impounded with the animal control authority or humanely and safely confined by the owner in a securely fenced or enclosed

area pending the outcome of the investigation and resolution of any hearings. If the owner retains control of the animal during the investigation, the address of where the animal resides shall be provided to the animal control authority. The owner of an animal under investigation may not relocate the animal or transfer ownership of said animal.

(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 shall afford the owner an opportunity for a hearing before the code enforcement board or special magistrate prior to making a final determination. The animal control authority shall provide written notification of the sufficient cause finding, 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 within seven (7) calendar days from the date of receipt of the notification of the sufficient cause finding. If requested, a hearing will be afforded before the code enforcement board or special magistrate between five (5) and twenty-one (21) days after the request is received. If no hearing is requested, the dog shall be classified as dangerous. If a hearing is requested, the code enforcement board or special magistrate can either uphold the classification, overturn the classification, or uphold the classification with conditions the owner must fulfill for the classification to be overturned. The code enforcement board or special magistrate may apply conditions, including, but not limited to, dog training and leash/muzzle requirements. In making its determination, the code enforcement board or special magistrate may take into account any circumstances surrounding the incident(s) as well as any previous reported incidents.

(4) Once a dog is classified as a dangerous dog, the animal control authority shall provide written notification to the owner by registered mail, certified hand delivery or service, and the owner may file a written request for a hearing in the ~~county court~~ circuit court to appeal the classification within ten (10) business days after receipt of a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this subsection.

- (c) Certificate of registration. Within fourteen (14) days after the dog has been classified as dangerous by the animal control authority or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, which must be renewed annually. The annual cost for such certificate of registration shall be one hundred dollars (\$100.00). To obtain a certificate of service or renewal, the owner must be eighteen (18) years of age and present to the animal control authority sufficient evidence of:

- (1) A current certificate of rabies vaccination for the dog.

- (2) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible sign at all entry points warning persons that informs both children and adults of the presence of a dangerous dog on the property.
 - (3) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.
 - (4) The spaying or neutering of the dog. Said spaying or neutering must be completed by a licensed veterinarian within thirty (30) days of such classification, or within thirty (30) days of such classification being upheld by a county court, unless:
 - a. A licensed veterinarian certifies, in writing, that the dog is incapable of reproduction; or
 - b. A licensed veterinarian certifies, in writing, that the spaying or neutering of the dog would be injurious to the dog's health; provided, however, that if the health condition of the dog is of a temporary nature, then the dog shall be spayed or neutered immediately after the health condition has been corrected or otherwise resolved.
 - (5) The owner shall, at the owner's expense, have the dog evaluated by a credentialed animal behavior specialist, provide a copy of the written evaluation to the animal control authority, and agree in writing to comply in full with all recommendations made by the specialist.
- (d) Notice. The owner shall immediately notify the appropriate animal control authority when a dog that has been classified as dangerous:
- (1) Is loose or unconfined.
 - (2) Has bitten a human being or attacked another animal.
 - (3) Dies.
 - (4) Is moved to another address.
- Prior to a dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority.
- (e) Confinement. A dangerous dog must be muzzled, without causing harm to the animal, and restrained by an adequate chain or leash if outside of a proper enclosure. A dangerous dog may not be permitted to run at large. A dangerous dog may not be muzzled or leashed if contained in a securely fenced or enclosed area if the dog remains within the owners or custodian's control and sight. A dangerous dog must be safely and securely restrained within a vehicle when being transported.
- (f) Exemptions.
- (1) Hunting dogs are exempt from the provisions of this act when engaged in any legal hunt or training procedure; however, dogs classified as dangerous shall not be used for hunting purposes. 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 the provisions of this act when engaged in any legal procedures.

- (2) This section does not apply to dogs used by law enforcement officials for law enforcement work.

- (g) Penalty. Any person who violates any provision of this section is guilty of a noncriminal infraction, punishable by a fine not exceeding five hundred dollars (\$500.00) plus \$5.00 surcharge for total of \$505.00. Failure to complete the above requirements within one hundred twenty (120) days of the classification (either the initial determination or the determination being upheld on appeal) shall result in confiscation of the dog by the Animal Control Officer or Police Department.

Section 2. The Ordinance shall become effective on after passage by the City Council.

VOTE RESULTS OF FIRST READING AND PUBLIC HEARING:

Mayor Elaine Brown	Y
Vice Mayor Scott Wiley	Y
Councilor Rory Diamond	Y
Councilor Richard Arthur	Y
Councilor Fred Jones	Y

Passed on First Reading this 5th day of July, 2017.

VOTE RESULTS OF SECOND AND FINAL READING AND PUBLIC HEARING:

Mayor Elaine Brown	Y
Vice Mayor Scott Wiley	Y
Councilor Rory Diamond	Y
Councilor Richard Arthur	Absent
Councilor Fred Jones	Y


Passed on Second and Final Reading this 7th day of August, 2017.



Elaine Brown, Mayor




ATTEST:



Catherine Ponson, City Clerk

Approved as to form and content:


Patrick Krechowski, City Attorney