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| August 7, 2008 | | AGENDA ITEM | | Item 41 |
| <input checked="" type="checkbox"/> Ordinance | | <input type="checkbox"/> Resolution | | <input type="checkbox"/> Budget Resolution |
| <input checked="" type="checkbox"/> Other | | | | |
| Department: Legal Department | | File Number: VC-1217251946292-A | | |
| Division: Legal | | | | |
| Subject: Domestic animals | | | | |
| Account Number(s): N/A | | | | |
| Total Item Budget: N/A | | | | |
| Staff Contact(s): Jamie Seaman Phone: 386 735-5950 ext. 5950 | | | | |
| Summary/Highlights: | | | | |
| <p>The number of domestic animals allowed in a home is controlled by the permitted uses and special exceptions set forth in the zoning ordinance. The Planning and Land Development Commission and the Animal Control Board have both provided input as to the number of domestic animals that should be allowed.</p> <p>Attached are a draft ordinance updating the Animal Control ordinance and facility standards for domestic animals. The amendment to the Animal Control ordinance provides criteria for licensing hobby breeders, including the care and number of animals. The proposed standards for domestic animal facility would be added to the Zoning Code as criteria.</p> | | | | |
| Recommended Motion: | | | | |
| <p>Authorize advertising the draft ordinance for the August 21, 2008 meeting and provide direction on the proposed standards for domestic animal facilities.</p> | | | | |
| Jamie Seaman, Deputy County Attorney  | OMB Approved as to Budget Requirements | Legal  Approved as to Form and Legality | Betty Holness County Manager's Office  Approved Agenda Item For: August 7, 2008 | |
| Council Action: | | Modification: | | |
| <input type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date: | | | | |

Proposed Standards for Domestic Animal Facility

- (1) No variance or waiver of the terms of this section shall be allowed.
- (2) Setbacks. Any principal or accessory structure shall have a minimum front, rear and side yard setback of 50 feet or the applicable setback provided by the applicable zoning classification, whichever is greater.
- (3) Numerical Limits. Unless provided otherwise herein, all facilities shall be subject to the following numerical restrictions on domesticated pets over six (6) months of age:

| Acreage | Number of Animals | | | |
|------------------------------------|-------------------|--------------------------|--------------------------|--------------------------|
| | 1 to 5 | 6 to 11 | 12 to 19 | 20 to 25 |
| Less than 1.5 | <u>allowed</u> | <u>not allowed</u> | <u>not allowed</u> | <u>not allowed</u> |
| Greater than 1.5 but less than 2.5 | <u>allowed</u> | <u>special exception</u> | <u>not allowed</u> | <u>not allowed</u> |
| Greater than 2.5 but less than 5 | <u>allowed</u> | <u>special exception</u> | <u>special exception</u> | <u>not allowed</u> |
| Greater than 5 but less than 10 | <u>allowed</u> | <u>allowed</u> | <u>special exception</u> | <u>special exception</u> |
| 10 or greater | <u>allowed</u> | <u>allowed</u> | <u>special exception</u> | <u>special exception</u> |

Property with 10 or more acres in the A-1 and A-2 or 20 acres or more in the FR zoning classifications may be granted a special exception for more than 25 domesticated pets over six (6) months of age. The maximum number of animals shall be determined by the county council after inspection by the animal control division and upon consideration of the following conditions and factors:

- a. The facility must have principal and accessory structures, including cages and enclosures, of sufficient size to accommodate the animals in a safe manner;
- b. The facility must have one employee or volunteer per every additional twenty-five (25) animals;
- c. The facility must have one employee or volunteer on the premises 24 hours a day 7 days a week;
- d. The facility must be compatible with the lot size pattern of the area and the impact of proposed facility on smaller lot sizes;
- e. The impact of noise from the facility shall not adversely affect the surrounding properties; and
- f. The owner and operator shall not have a history of complaints regarding the care and treatment of animals.

(4) Facility Standards. No facility allowed by special exception shall operate without satisfying the applicable facility standards imposed by Section 14-56, Code of Ordinances, County of Volusia, as

administered by animal control division. The facility shall be subject to inspections as set forth in Section 14-56 and the annual license.

- (5) *Class II Wildlife.* No special exception shall be granted for an animal care facility which is proposed to shelter, maintain, train, board or breed class II wildlife as listed in Section 68A-6.002, Florida Administrative Code, unless the applicant has obtained a permit from the Fish and Wildlife Conservation Commission pursuant to Section 372.922, Florida Statutes. The provisions of paragraph (3), (4) and (5) shall not apply to said animal care facility if it is limited to only class II wildlife.

1 ~~Canine~~ Hobby breeder means a person other than a pet dealer who shelters,
2 breeds or trains a single breed of dog or cat to conform to an approved standard of
3 competition. The owner of a hobby breeder facility must be in good standing and have
4 registration privileges intact with the appropriate national animal registry. The owner
5 must have three years' documented experience in show clubs and participation in show
6 trials.

7 * * *

8 Hobby breeder facility means kennels or catteries operated by a ~~canine~~ hobby
9 breeder that conform to the standards set out in this article under section 14-56.

10 * * *

11 Person means an individual, firm, partnership, corporation, trust or any
12 association of persons.

13 * * *

14 Primary Enclosure means a structure used to immediately restrict one or more
15 cats to a limited amount of space, such as a room, pen, run, cage or compartment.

16 **SECTION II:** Chapter 14, Article II, Section 14-56, of the Code of Ordinances
17 of the County of Volusia is amended to read as follows:

18 **Sec. 14-56. ~~Canine~~ Hobby breeders.**

19 (a) *Generally.*

20 (1) *License required; fee.* No person shall establish or maintain a
21 hobby breeder facility without first obtaining an annual license from the
22 animal control division ~~authority~~. The license fee for such facility will be

1 set by resolution of the county council and not be based on the number of
2 ~~adult dogs~~ animals maintained at the facility. A license shall be issued
3 only after an inspection that determines that the minimum requirements
4 and standards, as set forth herein, have been met. The license shall be
5 valid for a period of one (1) year from the date of issue, unless otherwise
6 stated or revoked. Renewal applications shall be made within thirty (30)
7 days prior to the expiration date.

8 (2) *Sale of animals.* The offspring of the dogs or cats bred at a ~~canine~~
9 hobby breeder facility to enhance or perpetuate a given breed may be sold
10 by the owner. Such sales shall not be considered commercial breeding for
11 the purpose of this article provided that such sale is not the primary
12 function of the facility.

13 (3) *Permitted animals; identification of animals.* There shall be only one
14 species and one breed of either dog or cat bred or kept at any individual
15 licensed ~~canine~~ hobby breeder facility. There shall be no more than two
16 litters or 20 puppies or kittens, whichever is greater, produced per ~~canine~~
17 hobby breeder facility per year. Dogs or cats maintained at a licensed
18 ~~canine~~ hobby breeder facility are exempt from the individual licensing
19 provisions of this article except as otherwise provided in this article. For
20 protection and identification, all dogs and cats will be identifiable by
21 either a tattoo or implant device. An implant scanner must be on the
22 premises if using an implant device. At no time will the total number of
23 adult dogs or cats exceed the following limitations:

- 1 a. Miniature or toy breeds, ~~15 animals~~ dogs.
- 2 b. Standard or large breeds, ~~ten animals~~ 10 dogs.
- 3 c. Cats – 25.

4 (4) *Return of animals by new owners.* If a new owner becomes unable or
5 unwilling to continue ownership and responsibility for a dog or cat, the
6 license holder shall assist in placement of the dog or cat. If no suitable
7 placement can be found within six months, the license holder shall accept
8 return of the dog or cat if healthy and shall become fully responsible for its
9 care.

10 (b) ~~Indoor~~ Facilities.

11 (1) The facility, whether it be a private residence, portion of a private
12 residence or a separate structure not physically connected to a private residence,
13 shall be structurally sound and maintained in good repair to protect the animals
14 from injury, to protect the animals against overexposure to the elements, to
15 contain the animals and to restrict the entrance of other animals.

16 (2) Food shall be transported, handled and stored in a manner that
17 ensures against the introduction of parasites, disease vectors (such as insects) or
18 chemical contaminants. Supplies of dry food shall be stored in areas that are cool,
19 dry, clean and free of vermin and other potential contaminants. Refrigeration shall
20 be provided for supplies of perishable food. Conditions affecting the shelf life of
21 food such as date of manufacture, exposure to extremes in temperature and
22 humidity, exposure to moisture, unsanitary conditions, exposure to light, exposure
23 to oxygen, and exposure to insects shall be monitored to prevent deterioration of

1 the nutrient value of food. Food receptacles shall be accessible to all animals and
2 shall be located to prevent contamination by excreta. Feeding dishes shall be kept
3 clean. Self-feeders may be used for the feeding of dry food and shall be sanitized
4 regularly to prevent molding, deterioration or caking of food.

5 (3) Access to shelter shall be provided for the animals to allow them to
6 remain dry at all times. When sunlight is likely to cause overheating or
7 discomfort, sufficient shade shall be provided to allow the animals to protect
8 themselves from direct rays of the sun.

9 (4) Indoor Facilities

10 a. (1) A source of heat and mechanical ventilation shall be
11 available at the facility for use as necessary in preventing extremes in
12 temperatures. Buildings must be maintained with suitable temperatures,
13 ventilation and lighting, ~~suitable for each breed housed.~~ The ambient
14 temperature shall be maintained in a range that ensures that the animals
15 will not suffer from heat stress (heat stroke or hyperthermia) nor from cold
16 stress (frostbite or hypothermia).

17 b. (2) The ~~kennel~~ facility must provide adequate shelter from the
18 elements and be kept clean and dry. Food must be fresh, wholesome,
19 palatable, nutritionally adequate and offered to each animal ~~dog~~ at least
20 once daily. Water must be fresh and available at all times. ~~Dogs~~ Animals
21 shall be provided proper and necessary veterinary care. ~~Canine hobby~~
22 ~~breeder~~ Facility owners must live on the premises.

1 c. ~~(3)~~ The interior building surfaces of any indoor housing
2 facilities shall be constructed and maintained so that they are impervious
3 to moisture and can be readily sanitized.

4 d. ~~(4)~~ A primary enclosure shall provide sufficient space to allow
5 each enclosed cat to turn freely and to easily stand, sit and lie in a
6 comfortable position. The minimum primary enclosure space for a single 4
7 lbs. or greater cat is to be 30 cubic feet. When a primary enclosure is used
8 for more than one cat, resting perches shall be provided. Cages, kennels
9 and runs must have enough space for dogs to lie down, stand, sit and
10 stretch without touching the sides or top. Dogs shall be exercised a
11 minimum of 30 minutes twice daily.

12 e. ~~(5)~~ Concrete floors and runs must have a resting board, and
13 cages must have sanitary bedding. Easily accessible litter pans shall be
14 provided for all cats at all times.

15 f. ~~(6)~~ ~~All hobby breeder~~ The animal care facilities shall be
16 structurally sound and shall be maintained in good repair to protect the
17 ~~dogs~~ animals from injury. Appropriate measures must be taken to control
18 and restrict the entrance of rodents.

19 g. ~~(7)~~ The facility shall have ample light of good quality by natural
20 or artificial means or both. The lighting shall provide uniformly
21 distributed illumination of sufficient intensity to permit routine inspection,
22 cleaning and provide for the well-being of the animals. The animals shall
23 be protected from excessive illumination. ~~Dog housing areas shall be~~

1 illuminated during the daylight hours provided sunlight will not shine
2 directly into the cages.

3 h. (8) All cages shall be constructed of impervious porous
4 materials. All cages shall have floors of either solid construction or metal
5 grid construction. Cages having metal grid floors can be used provided the
6 grid size is smaller than the pads of the feet of the dogs confined therein.
7 No cages shall be enclosed entirely by solid walls. Stack cages must have
8 solid floors. All primary enclosures shall be constructed and maintained
9 so that cats therein have convenient access to clean food, water and litter.
10 The number of cats in a primary enclosure shall not exceed the number
11 which would prevent proper ventilation and sanitation. A primary
12 enclosure shall not be constructed or maintained with an exposed wire
13 mesh bottom or any other material that will injure the feet or legs of a cat.
14 If the primary enclosure is not of sufficient size to allow the cat(s) to
15 express their specialized locomotor patterns, then an area shall be made
16 available for the cat(s) to exercise and scratch at least once a day.

17 i. (9) If drains are used, they shall be properly constructed and
18 kept in good repair to avoid foul odors.

19 j. In all primary enclosures with a solid floor, a receptacle
20 containing sufficient clean litter shall be provided to contain excreta. Each
21 primary enclosure shall be provided with a solid resting board and shall be
22 of adequate size to comfortably hold all occupants of the enclosure at the

1 same time. Such resting surface or surfaces shall be elevated in primary
2 enclosures housing two (2) or more cats.

3 (e5) *Outdoor facilities.*

4 a. (4) *Shelter.* Sufficient shade shall be provided to afford all
5 ~~dogs~~ animals protection from direct sunlight. Sufficient cover shall be
6 provided to protect all ~~dogs~~ animals from rain. Shelter shall be provided
7 for all ~~dogs~~ animals when the ambient temperature falls below 50 degrees
8 Fahrenheit. Sufficient clean bedding material or other means of protection
9 from the weather elements shall be provided when the ambient
10 temperature falls below that temperature to which the dogs are
11 acclimated. The facility shall be adequately ventilated to provide for the
12 health and comfort of the animals at all times. The facility shall be
13 provided with a source of fresh air by means of windows, doors, or vents
14 and shall be ventilated in a manner that minimizes drafts, odors and
15 moisture conditions.

16 b. (2) *Cleaning of enclosures.* Excreta shall be removed from
17 enclosures as often as necessary to prevent contamination of the ~~dogs~~
18 animals contained therein and to reduce disease hazards and odors. When
19 a hosing or flushing method is used for cleaning an enclosure commonly
20 known as a cage, any ~~dog~~ animal contained therein shall be removed from
21 such enclosure during the cleaning process, and adequate measures shall
22 be taken to protect the ~~dogs~~ animals in other such enclosures from being

1 contaminated with water and other waste. A suitable method shall be
2 provided to rapidly eliminate any excess water.

3 c. (3) *Sanitation of enclosures required.* Prior to the introduction
4 of ~~dogs~~ animals into empty enclosures previously occupied, such
5 enclosures shall be sanitized. Enclosures for ~~dogs~~ animals shall be
6 sanitized often enough to prevent an accumulation of debris or excreta or a
7 disease hazard; provided, however, such enclosure shall be sanitized at
8 least once every two weeks.

9 d. (4) *Method of sanitation.* Cages, rooms and hard-surfaced
10 pens or runs shall be sanitized by washing them with hot water and soap or
11 detergent or by washing all soiled surfaces with a detergent solution
12 followed by a safe and effective disinfectant, or by cleaning all soiled
13 surfaces with live steam. Pens or runs using gravel, sand or dirt shall be
14 sanitized by removing the soiled gravel, sand or dirt and replacing it as
15 necessary. Feces and soiled litter material shall be removed from all litter
16 pans at least once a day. Absorbent litter and/or any other material used to
17 absorb urine shall be changed when it becomes 30 percent saturated with
18 urine.

19 e. (5) *Maintenance of buildings and grounds.* Premises
20 (buildings and grounds) shall be kept clean and in good repair in order to
21 protect the ~~dogs~~ or cats from injury and to facilitate the prescribed
22 husbandry practices set forth in this subsection. Premises shall remain free
23 of accumulations of trash.

1 f. (6) Pest control. An effective program for the control of
2 insects, ectoparasites and avian and mammalian pests shall be established
3 and maintained.

4 g. (7) Distance of animal facilities from adjoining property. All
5 runs, exercise areas and primary enclosures shall meet the minimum
6 setback provided for in Section 817.00. ~~No runs, exercise areas or other~~
7 ~~facilities for the keeping of dogs will share common property lines. All~~
8 ~~facilities shall be double fenced and located a minimum of ten feet from~~
9 ~~adjoining property lines.~~

10 h. Containment of animals. Outdoor areas for dogs must be
11 double fenced in order to ensure all dogs are contained and do not escape.
12 If cats are allowed outdoors they must be kept in an enclosure that has four
13 sides and an attached solid or wire mesh top or roof to prevent the cats
14 from escaping the enclosure.

15 (d) Inspections and enforcement. It shall be a condition of the issuance of a
16 license that an animal control officer shall be allowed, at any reasonable time, to
17 inspect without notice all domestic animals and all premises where animals are
18 kept. The animal control division shall give ~~the hobby breeder a~~ license holder
19 24-hour advance notice of the annual inspection by the animal control division of
20 ~~the hobby breeder facilities.~~ However, no notice is required for routine
21 investigations of complaints. Any alleged violations of this section will be
22 investigated by the animal control division. Upon receipt of information of
23 violation of this section, the animal control division may issue a notice of

1 revocation to a ~~hobby breeder~~ license holder. The notice of revocation shall
2 provide a summary of the information of the violation and shall be sent to the
3 address listed in the license application. No license shall be renewed if an
4 applicant has had its license revoked within two (2) years of the date of the
5 application or has outstanding and unsatisfied civil penalties imposed due to
6 violations of this Article.

7 * * *

8 **SECTION III:** AUTHORIZING INCLUSION IN CODE - The provisions
9 of this ordinance shall be included and incorporated into the Code of Ordinances of the
10 County of Volusia, as additions or amendments thereto, and shall be appropriately
11 renumbered to conform to the uniform numbering system of the code.

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

17 **SECTION V:** CONFLICTING ORDINANCES - All ordinances, or part
18 thereof, in conflict herewith are, to the extent of such conflict, repealed.

19 **SECTION VI:** EFFECTIVE DATE - A certified copy of this Ordinance shall
20 be filed with the Department of State by the County Manager within ten (10) days after
21 enactment by the County Council and this Ordinance shall take effect upon filing with the
22 Department of State.

23 ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
24 FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL

1 CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION CENTER, 123
2 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS _____ DAY OF
3 _____ A.D., 2008.

4
5
6 ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

7
8
9
10
11 _____
12 James T. Dinneen, County Manager

Frank T. Bruno, Jr., County Chair

DRAFT