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TORTS

DAMAGE BY DOGS; DANGEROUS DOGS

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.