

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA ESTABLISHING NEW HEARING PROCEDURES FOR PERMIT APPEALS, DANGEROUS DOG DECLARATIONS, AND CONFISCATIONS FOR EUTHANASIA PURSUANT TO HILLSBOROUGH COUNTY ANIMAL ORDINANCE 00-26 AS AMENDED BY ORDINANCE ____ - ____, REPEALING RESOLUTIONS NO. R94-0284 AND R00-133, AND PROVIDING FOR AN EFFECTIVE DATE.

Upon motion by Commissioner _____, seconded by Commissioner _____, the following Resolution was adopted by a vote of ____ to ____; Commissioner(s) voting "No".

WHEREAS, Section 767.12, Florida Statutes, establishes procedures for the classification of dogs as dangerous; and

WHEREAS, Section 767.13, Florida Statutes, establishes procedures for the confiscation of dogs for euthanasia; and

WHEREAS, both Sections 767.12 and 767.13, Florida Statutes, require local governing authorities to establish hearing procedures which conform to statutory requirements; and

WHEREAS, the Board of County Commissioners adopted Hillsborough County Ordinance 00-26, which provides for animal control and authorizes the Board of County Commissioners to establish hearing procedures for certain administrative hearings related to the Ordinance by resolution; and

WHEREAS, the Board of County Commissioners adopted Hillsborough County Ordinance ____ - ____, amending Ordinance 00-26, for the purpose of preventing dog and cat bites on humans or other animals; and

WHEREAS, Ordinance ____ - ____, included in the administrative hearing process confiscations for euthanasia; and

WHEREAS, administrative procedures adopted in Resolutions R94-0284 and R00-133, are inconsistent with newly adopted Ordinance ____ - ____; and

WHEREAS, in order to implement the changes to the administrative hearing process set forth in Ordinance ____ - ____, new procedures should be established as appropriate to include permit appeals, dangerous dog declarations and confiscations for euthanasia; and

WHEREAS, the Board of County Commissioners has received the Department of Animal Services' proposed administrative hearing procedures and determines the same to be appropriate and reasonable.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA, AT A REGULAR MEETING ASSEMBLED THIS _____ DAY OF _____, 2003:

ADMINISTRATIVE HEARING PROCEDURES

- (1) The procedures for notifying a dog owner that there has been a finding by the Department that his or her dog should be classified as dangerous and for requesting a hearing to appeal that decision are set forth in Section 767.12, Florida Statutes (2002), as may be amended, and in Section 9 of Ordinance 00-26 as amended by Ordinance ____-____.
- (2) The procedures for notifying a dog owner of the Department’s decision to confiscate his or her dog for euthanasia pursuant to Section 767.13, Florida Statutes (2002), as may be amended, are the same as required for classification of a dog as dangerous and as set forth by Section 767.12, Florida Statutes (2002), as may be amended, and in Paragraph (1) above. The owner has ten (10) business days from the date of said notification to request a hearing challenging the Department’s decision to confiscate the dog for euthanasia. The request shall be in writing and delivered to the Director of Animal Services. The hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than 5 days after receipt of the request for hearing by the Department. During this hearing process and any appeal, the owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during the process.
- (3) The following notification and request for hearing procedures set forth apply to permit appeals initiated under Section 21 of Ordinance 00-26, as amended by Ordinance ____-____:
 - (a) The Department shall notify a permittee of a denial, suspension or revocation of a permit in writing by registered mail, certified hand delivery, or service in conformity with the provision of Chapter 48, Florida Statutes (2002), as may be amended, relating to service of process.
 - (b) The permittee may file a written request for a hearing, delivered to the Director of Animal Services, within 10 calendar days from the date of receipt of the letter of notification of denial, suspension or revocation of the permit.
 - (c) When the request for a hearing is received by the Department, the Department shall set a hearing within 21 calendar days from such receipt; but no sooner than 5 days after receipt of request by the permittee.
- (4) The following hearing procedures shall apply to any administrative hearing required pursuant to Section 26 of Hillsborough County Ordinance 00-26, as amended by Ordinance ____-____, including permit appeals, dangerous dog declarations, and confiscations for euthanasia:
 - (a) The BOCC shall appoint three special hearing officers for two-year terms to conduct hearings on a rotating basis. The hearing officers may be reappointed once for another two-year term. They may not serve more than two consecutive terms as hearing officer. These hearing officers must be members in good standing with the Florida Bar who are not employees of the Hillsborough County Attorney’s Office.

- (b) All hearings shall be informal and open to the public. The nature of the hearing shall be non-adversarial in nature, providing all parties with an opportunity to be heard.
- (c) Each party shall have the following rights:
 - (1) Be accompanied, represented and advised by counsel;
 - (2) To call and examine witnesses;
 - (3) To introduce exhibits;
 - (4) To cross-examine opposing witnesses on any relevant matter even though that matter was not covered on direct examination;
 - (5) To impeach any witness;
 - (6) To rebut evidence.
- (d) The order of presentation shall be as follows:
 - (1) Department's presentation of its investigation, evidence, findings and any witnesses;
 - (2) The requesting party's presentation of evidence and witnesses;
 - (3) Rebuttal and recommendations of the Department and summation, if any;
 - (4) Rebuttal and summation by the requesting party, if any;
 - (5) Findings and recommendations of the hearing officer.
- (e) The hearing officer may question witnesses as deemed necessary and appropriate.
- (f) Any relevant evidence shall be admitted if the hearing officer finds it competent and reliable. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient, alone, to support an Order unless such evidence would be admissible in a civil action. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Any part of the evidence may be received in written form and all testimony shall be under oath.
- (g) The hearing officer may, in his discretion, continue a hearing at any time and may request further information from any party.
- (h) The hearing officer shall determine by a preponderance of the evidence whether there is sufficient cause for the Department's decision. The hearing officer may render an oral decision at the conclusion of the hearing, or, in his or her sole discretion, he or she may reserve ruling and take the matter under advisement. Within 14 calendar days of the conclusion of the hearing, the hearing officer shall file his or her findings and recommendations with the Department's records and provide a copy to all other parties, the dog owner's copy shall be delivered via registered mail, certified hand delivery or service.
- (i) Any party appealing a dangerous dog determination or confiscation for euthanasia by the hearing officer may file a written request for a hearing with the Clerk of the County Court within 10 business days of the date of receipt by the owner of the hearing officer's written decision and upon payment of any applicable filing and/or administrative fees.
- (j) Any party appealing a permit decision of the hearing officer shall have the right to file an appeal to the appropriate court of law within 30 days of the date of the decision.

- (k) Any party who decides to appeal the decisions of the hearing officer may need a record of the proceedings, and for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.
- (5) An owner of a dog declared dangerous may apply to the Director of Animal Services for reconsideration of the classification at any time after six (6) months has elapsed from the rendition of any final order or subsequent review, whichever is applicable, based upon newly discovered evidence not previously presented or any relevant information for the Director's consideration. Reconsideration of the classification is solely at the discretion of the Director.
- (6) Resolutions R94-0284 and R00-133 are hereby repealed in their entirety.
- (7) The provisions of this resolution are effective immediately upon adoption by the Board of County Commissioners.

PASSED AND ADOPTED this _____ day of _____, 2003.

STATE OF FLORIDA)
 COUNTY OF HILLSBOROUGH)

I, Richard Ake, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of a Resolution adopted by the Board at its regular meeting of _____, 2003 as the same appears of record in Minute Book _____ of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this _____ day of _____, 2003.

RICHARD AKE
 CLERK OF THE CIRCUIT COURT

By: _____
 Deputy Clerk

Approved as to form
 and legal sufficiency:

BY: _____
 County Attorney