

ORDINANCE NUMBER 2013-___

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING VOLUME 1, CHAPTER 10, ARTICLE I, SECTION 10-11 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES RELATING TO ANIMAL CONTROL; CREATING VOLUME 1, CHAPTER 10, ARTICLE I, SECTION 10-25 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES TO ESTABLISH TWO PUBLIC PARKS ON PENSACOLA BEACH SPECIFICALLY DESIGNATED FOR DOGS; CREATING VOLUME 1, CHAPTER 10, ARTICLE I, SECTION 10-26 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES TO ESTABLISH PARKS ON PERDIDO KEY SPECIFICALLY DESIGNATED FOR DOGS; PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR HOURS OF OPERATION; REQUIRING THE POSTING OF SIGNS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 125, Florida Statutes, the County is authorized to establish regulations in the interest of the public health, safety and welfare to regulate land use planning and development in the County; and

WHEREAS, the Board of County Commissioners finds that the County's ordinances relating to animal control require amendment to promote the health, safety and welfare of the public by providing protection for, regulation and control of animals on public beaches in the County; and

WHEREAS, the Board of County Commissioners further finds that the proposed amendment modifying the provision relating to animal control, creating a provision to establish two public parks on Pensacola Beach specifically designated for dogs, and creating a provision to establish public parks on Perdido Key specifically designated for dogs serves an important public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. That Volume 1, Chapter 10, Article I, Section 10-11 of the Escambia County Code of Ordinances is hereby amended to read as follows:

Sec. 10-11. Animal Control.

- (a) *Generally.* Animals are prohibited from roaming freely on any public or private property without the consent of the owner or lessee unless such animal is specifically excepted as further set out in this section.
- (b) *Public places.* Animals are prohibited from public places in the county such as airports, hotels, restaurants, theaters, public conveyances, grocery stores, or other establishments serving food, beverages or staple foods, and at public gatherings

such as outdoor festivals, fairs, etc. Animals so found, whether roaming or on direct control by the owner, may be impounded.

- (1) It shall be unlawful for the owner of an animal to allow his animal in public places of the county such as school grounds, school bus stops, public parks, beaches, and playgrounds.
 - (2) It shall be unlawful for the owner of an animal to allow his animal, whether roaming at large or on a leash or otherwise under his control, on public bathing beaches or recreational areas on that portion of Santa Rosa Island owned by and under the jurisdiction of the county or the Santa Rosa Island Authority, or on that portion of any beach, public or private, lying seaward of the coastal construction setback line for land southward of the right-of-way of State Road 292 or lying seaward of the line of vegetation for land northward of the right-of-way for State Road 292 on the portion of the county known as Perdido Key which is bordered to the west by the Alabama state line, to the south by the waters of the Gulf of Mexico, to the east by the property of the U.S. Government, and to the north by the waters of the Intracoastal Waterway.
 - (3) Provided, however, no animal owner shall be prohibited from permitting his animal within 50 feet of a building which the animal owner owns or leases.
- (c) *Exceptions.* These restrictions relating to public places, schools, parks, beaches and recreational areas shall not apply to:
- (1) Animals utilized by law enforcement agencies, while engaged in law enforcement activity.
 - (2) Animals trained to assist the blind or hearing impaired, provided such animal is in the company of such person.
 - (3) The showing and training of dogs and the use of animals in educational presentations in appropriate locations of auditoriums, schools, parks, parking lots, armories, theaters, and similar public or privately owned areas.
 - (4) The transportation of animals by airlines at the airport in the county.
 - (5) Special events as authorized by a vote of the majority of the board of county commissioners with any conditions set forth by the board as reasonable under the circumstances.
 - (6) Designated portions of Santa Rosa Island owned by and under the jurisdiction of the county or the Santa Rosa Island Authority as provided in section 10-25.
 - (7) Designated portions of Perdido Key under the jurisdiction of the county as provided in section 10-26.
- (d) *Female animals in season.* The owner of any female animal in heat shall keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel in such a manner that such female animal cannot come in contact with another animal, except for intentional breeding purposes. An owner who does not keep the female animal confined while in season shall be guilty of a civil infraction

and punished as provided in section 10-23. This section shall not apply to female animals entered in organized shows.

(e) *Animal nuisances prohibited.* Any animal or animals which shall do any of the following are declared to be an animal nuisance:

- (1) Molests passersby or passing vehicles.
- (2) Attacks other animals.
- (3) Trespasses on school grounds.
- (4) Is repeatedly at large.
- (5) Damages private or public property.
- (6) Defecates or urinates upon the property of others.
- (7) Repetitively barks, whines, howls or otherwise produces any noise in an excessive, continuous or untimely fashion for a period of five minutes or more except that caused by intentional human provocation.
- (8) Has a communicable or contagious disease that is untreated or does not respond to treatment.
- (9) Causes or emits an offensive odor which can be detected off the property of its owner.
- (10) Is kept in a manner which causes a breeding place for flies, lice, fleas or other vermin or disease.
- (11) Unreasonably interferes with a person's use and enjoyment of his property.

Any person who keeps, harbors, or maintains an animal nuisance, as defined above, shall be guilty of a civil infraction and punishable as provided in section 10-23.

(f) *Removal of canine waste and requirement for possession of device for removal in the county.*

- (1) It shall be the duty of each person who is in the company of or responsible for a dog on areas other than the property of such person to remove any feces left by his dog on any yard, sidewalk, gutter, street, right-of-way, or other public or private place.
- (2) It shall further be the duty of any person while in direct control of a dog to have in his possession a plastic bag or "pooper scooper" or other such device sufficient for his use in the removal of canine waste.
- (3) Violators of this section shall be guilty of a civil infraction and punishable pursuant to section 10-23.
- (4) This section may be enforced by the county sheriff or county animal control officers. The provisions of Rule 3.125, Florida Rules of Criminal Procedure, providing that violators of county ordinances may be served with a notice to appear, shall be applicable to violations of this section. Failure of a person

receiving a notice to appear to comply with the requirements on the notice shall be deemed a separate violation of this chapter for which a warrant for the violator's arrest may be issued.

(g) *Animal enclosures.*

- (1) The owner or keeper of an animal enclosure shall not sell, trade or give away any dog or cat, over four months of age, unless the dog or cat has been vaccinated. Appropriate records shall be maintained in accordance with F.S. § 828.31 (Laws of Fla., ch. 93-13(1993)).
- (2) Animal control shall be permitted to inspect any animal enclosure, animal records, and all animals and the premises where such animals are kept at any reasonable time during normal business hours where the officer has probable cause to believe a violation of this chapter exists to ensure compliance with all provisions of this chapter.

Section 2. That Volume 1, Chapter 10, Article I, Section 10-25 of the Escambia County Code of Ordinances is hereby created to read as follows:

(1) Short Title. This section shall be known as the “Pensacola Beach Dog Park Ordinance.”

(2) Legislative Intent. The intent of this section is to establish two parks on Pensacola Beach where dogs are permitted subject to the regulations provided herein that will promote a pet-friendly atmosphere while enhancing the health, safety and welfare of the public by providing protection for, regulation and control of animals on designated public beaches in Escambia County.

(3) Dog parks, requirements, hours.

(a) Except as specifically provided herein, it shall be unlawful for the owner of an animal to allow his animal, whether roaming at large or on a leash or otherwise under his control, on public bathing beaches or recreational areas on that portion of Santa Rosa Island owned by and under the jurisdiction of the county or the Santa Rosa Island Authority.

(b) Dogs shall be permitted on that portion of Pensacola Beach on the Gulf of Mexico adjacent to Parking Lot B (“Park West”) extending south from the dune vegetation line to the Gulf of Mexico and 100 yards to the west of the dune walkover and Parking Lot E (“Park East”) extending south from the dune vegetation line to the Gulf of Mexico and 150 feet to the east and 150 feet to the west of the dune walkover.

(c) From May 1st through September 30th, the hours of operation shall be from 7:00 a.m. until 10:00 a.m. CST. From October 1st through April 30th, the hours of operation shall be from the time of sunrise until 10:00 a.m. CST.

(d) The Santa Rosa Island Authority shall provide appropriate signage designating the park boundaries and rules of operation.

(e) All dogs shall be prohibited from roaming freely within the boundaries of the park. Each dog must be fastened to a suitable leash of dependable strength not to exceed eight (8) feet in length, and the leash must be held at all times by the person maintaining supervision and control over the dog.

(f) Any person having a dog on the beach during the above enumerated hours must carry with and on such person suitable materials with which to remove from the beach any fecal matter deposited by the dog. Any fecal matter must be removed immediately upon its deposit by the person maintaining supervision and control over the dog.

(g) Each dog must have the proper license tags affixed to its collar or harness at all times.

(h) No person maintaining supervision and control over a dog on the beach may deliberately disobey a reasonable command to ensure compliance with the rules and regulations provided in this section. A reasonable command shall only be made by the executive director, the director of public safety, the water safety supervisor and senior lifeguards of the Santa Rosa Island Authority while in the performance of their official duties. A reasonable command shall be preceded by a verbal warning to cease the prohibited activity and such person shall be permitted a reasonable opportunity to comply with the warning. A reasonable command shall be made in the presence of the county sheriff or his or her deputies.

(i) The executive director and the director of public safety of the Santa Rosa Island Authority shall have the authority to close the parks when deemed necessary to ensure the health, safety and welfare of the general public.

(4) Enforcement and penalty. This section may be enforced by the county sheriff and his or her deputies or county animal control officers as provided in this chapter. Violators of this section shall be guilty of a civil infraction and punishable pursuant to section 10-23.

(5) Sunset provision. This provision shall stand repealed one year from the date of enactment unless reviewed and saved from repeal through reenactment by the Board of County Commissioners.

Section 3. That Volume 1, Chapter 10, Article I, Section 10-26 of the Escambia County Code of Ordinances is hereby created to read as follows:

(1) Short Title. This section shall be known as the “Perdido Key Dog Park Ordinance.”

(2) Legislative Intent. The intent of this section is to establish parks on Perdido Key where dogs are permitted subject to the regulations provided herein that will promote a pet-friendly atmosphere while enhancing the health, safety and welfare of the public by providing protection for, regulation and control of animals on designated beaches in Escambia County.

(3) Dog parks, requirements, hours.

(a) Except as specifically provided herein, it shall be unlawful for the owner of an animal to allow his animal, whether roaming at large or on a leash or otherwise under his control, on public bathing beaches or recreational areas on that portion of any beach, public or private, lying seaward of the coastal construction setback line for land southward of the right-of-way of State Road 292 or lying seaward of the line of vegetation for land northward of the right-of-way for State Road 292 on the portion of the county known as Perdido Key which is bordered to the west by the Alabama state line, to the south by the waters of the Gulf of Mexico, to the east by the property of the U.S. Government, and to the north by the waters of the Intracoastal Waterway.

(b) Dogs shall be permitted on that portion of Perdido Key on the Gulf of Mexico...

(c) From May 1st through September 30th, the hours of operation shall be from 7:00 a.m. until 10:00 a.m. CST. From October 1st through April 30th, the hours of operation shall be from the time of sunrise until 10:00 a.m. CST.

(d) The County shall provide appropriate signage designating the park boundaries and rules of operation.

(e) All dogs shall be prohibited from roaming freely within the boundaries of the park. Each dog must be fastened to a suitable leash of dependable strength not to exceed eight (8) feet in length, and the leash must be held at all times by the person maintaining supervision and control over the dog.

(f) Any person having a dog on the beach during the above enumerated hours must carry with and on such person suitable materials with which to remove from the beach any fecal matter deposited by the dog. Any fecal matter must be removed immediately upon its deposit by the person maintaining supervision and control over the dog.

(g) Each dog must have the proper license tags affixed to its collar or harness at all times.

(h) No person maintaining supervision and control over a dog on the beach may deliberately disobey a reasonable command to ensure compliance with the rules and regulations provided in this section. A reasonable command shall only be made by county animal control officers while in the performance of their official duties.

A reasonable command shall be preceded by a verbal warning to cease the prohibited activity and such person shall be permitted a reasonable opportunity to comply with the warning. A reasonable command shall be made in the presence of the county sheriff or his or her deputies.

(i) The director of public safety shall have the authority to close the parks when deemed necessary to ensure the health, safety and welfare of the general public.

(4) Enforcement and penalty. This section may be enforced by the county sheriff and his or her deputies or county animal control officers as provided in this chapter. Violators of this section shall be guilty of a civil infraction and punishable pursuant to section 10-23.

(5) Sunset provision. This provision shall stand repealed one year from the date of enactment unless reviewed and saved from repeal through reenactment by the Board of County Commissioners.

Section 4. Severability.

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 5. Inclusion in the Code.

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 6. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS ____ DAY OF _____, 2013.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

BY: _____
Gene M. Valentino, Chairman

ATTEST: PAM CHILDERS
Clerk to the Circuit Court

BY: _____
Deputy Clerk

(SEAL)

Enacted:

Filed with Department of State:

Effective:

DRAFT