

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING CHAPTER 302, ANIMAL CONTROL, INDIAN RIVER COUNTY CODE SECTION 302.02 DEFINITIONS AND GENERAL PROVISIONS; AND SECTION 302.051 CRUELTY TO ANIMALS AND DEFINING TETHERING DEVICES, PROVIDING FOR CODIFICATION, SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, healthy dogs need regular exercise and dog owners may not always be able to provide fencing to keep their dogs on their own property while the dog enjoys its time outside; and

WHEREAS, owners have utilized tethers, leashes or trolley systems as an alternative to a fence to provide their animal with much needed outdoor time; and

WHEREAS, dog owners sometimes use improper tethering practices that are harmful and hurtful to their dog resulting in animal neglect and/or cruelty; and

WHEREAS, the Board deems it necessary to provide owners guidance for property tethering practices in order to protect the animal from inhumane conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA that:

SECTION 1. AMENDMENT.

Section 302.02. - Definitions and general provisions.

35. Tether: A tether shall be defined as a trolley system, chain, cord, leash, cable, or similar device which is attached to one or more fixed points to include, without limitation, a house, tree, fence, post, garage, or shed, used to confine a dog or cat to the owner's property and designated to be used for such purposes ~~Means a rope, leash longer than six (6) feet, pulley run, or other means of constraint that is attached to the animal by a properly applied collar, halter or harness and configured so as to protect the animal from injury and prevent entanglement with other objects and/or animals.~~

Sections 302.03-302.05 – No change.

Section 302.051. - Cruelty to animals.

(A) Pursuant to F.S. § 828.12, as may be amended from time to time, cruelty to animals is a criminal offense. The animal control division shall investigate reported incidents involving cruelty to animals and support investigations by other law

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enforcement agencies when so requested and refer cases where probable cause exists to the state attorney's office for criminal prosecution.

(B) The following are cruelty to animal violations under this chapter, and, pursuant to F.S. § 828.27(6), as may be amended from time to time, require mandatory court appearances, as set forth on the citation issued for the violation(s), for any person:

- (1) To tether, impound or confine any animal in any place or place of protection from the elements without water at all times and sufficient food daily except under veterinary supervision; to keep any animal in any insufficient protection from the elements to fail to provide protection from the elements, clean quarters, and medical attention for sickly, diseased, or injured animals; or to abandon any animal. However, this chapter shall not require the provision of protection from the elements and clean quarters for livestock in open pasture.
- (2) To leave or deposit any poison or any substance containing poison, in any common street, alley, lane, or road of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person.

(C) The following are cruelty to animal violations under this chapter that do not require mandatory court appearances, except as otherwise set forth herein, for any person:

- (1) To injure any domestic animal by any means and fail to notify the owner of such animal, or, if the owner cannot be notified, then notice shall be given either to an officer or the county 911 system.
- (2) To tease or molest an animal.
- (3) As an operator of a motor vehicle, to allow an animal to occupy any unenclosed section of that vehicle without restraining and securing the animal in a manner which does not present a danger to the animal or to others.
- (4) As an operator of a motor vehicle, to place or confine an animal or allow the animal to be placed, confined, or remain in an unattended motor vehicle without sufficient ventilation or under conditions for such a period of time as may reasonably be expected to endanger the health or well being of such animal due to heat, lack of water, or such other circumstances as may reasonably be expected to be cruelty or otherwise cause suffering, disability or death. Any officer who finds an animal in a motor vehicle in violation of this section may enter the motor vehicle by using the amount of force which is reasonably necessary to remove the animal.
- ~~(5) To restrain an unattended animal by means of a choker/training collar or tether that is ten (10) feet or less in length for more than ten (10) consecutive hours in any one (1) twenty-four hour period.~~

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~~(6) To restrain an unattended animal by means of a choker/training collar or tether that is ten (10) feet or less in length during any natural disaster, including, but not limited to, fires, hurricanes, and tornadoes.~~

D. Exceptions to tether prohibitions: Except as set forth in B(1) above and F below, ~~An~~ animal may be exclusively restrained by a tether provided it meets all of the following requirements:

- (1) The tether is more than ten (10) feet in length, with swivels at both ends;
- (2) The tether is properly attached to a pulley or trolley mounted on a cable that is also more than ten (10) feet in length;
- (3) The pulley or trolley is mounted at least four (4) feet and no more than seven (7) feet above ground level in a manner so as not to interfere, or become entangled, with objects on the property;
- (4) The tethering system employed does not allow the animal to leave the owner's property;
- (5) The tether is a cable not greater than 3/16 inches in diameter and ~~the~~ tether does not weigh more than one-eighth (1/8) of the animal's body weight;
- (6) The tether is attached to a properly fitting collar or harness worn by the animal; and
- (7) The collar or harness is not a choker collar.

E. It is not a violation of this part to tether an animal if it:

- (1) Is tethered in accordance with the regulations of a camping or recreations area;
- (2) Is being cared for as part of a rescue operation during a natural or manmade disaster;
- (3) Is in attendance at, or participating in, any legal, organized publicly attended event in which both the dog and the owner are permitted attendees or participants;
- (4) Is actively engaged in conduct that is directly related to the business of shepherding or herding cattle or livestock or a related business of cultivating agricultural products, as long as the restraint is necessary for the safety of the dog;
- (5) Is tethered, chained, tied or restrained by a veterinarian or groomer while attending to the dog;
- (6) Is trained or being trained, to act in a law enforcement capacity;

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(7) Is being lawfully used to actively hunt a species of wildlife in this State, during the hunting season, for that species of wildlife;

(8) Is tethered temporarily while being kept in a bona fide humane shelter approved by the Department or at a commercial boarding facility

(F) The following are cruelty to animal violations under this chapter that do not require mandatory court appearances, except as otherwise set forth herein, for any person to tether an animal:

(1) for more than one hour between the hours of 9 am and 5 pm when the outdoor temperature exceeds 90 degrees Fahrenheit.

(2) if the animal is less than 6 months of age, however, an animal under the age of six months old may only be tethered, if attended to by the owner, harborer or keeper, during the entire time the animal is tethered;

(3) if the animal is sick or injured.

(4) if the owner has been issued a "letter of dangerous propensity" for that dog by the Department, or if the dog has been declared dangerous in accordance with F.S. Ch 767, or if the person responsible for the dog has knowledge of the dog's prior aggressiveness, unless the tethered dog is in a fenced enclosure that will prevent the public or domestic animals from coming in contact with the tethered dog.

(Ord. No. 2006-001, § 1, 1-17-06)

SECTION 2. CODIFICATION.

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 Code of Indian River County and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 2, 3 and 4 shall not be codified.

SECTION 3. SEVERABILITY.

If any section, or any sentence, paragraph, phrase, or word of this ordinance is for any reason held to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance, and it shall be construed to have been the legislative intent to pass the ordinance without such unconstitutional, invalid or inoperative part.

SECTION 4. EFFECTIVE DATE.

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This ordinance shall take effect upon filing with the Florida Secretary of State, whichever occurs later. This ordinance was advertised in the

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Press Journal on the 7th day of June, 2019, for a public hearing on the 18th day of June, 2019, at which time it was moved for adoption by Commissioner _____, and seconded by Commissioner _____ and adopted by the following vote:

| | |
|---------------------------------|-------|
| Chairman Bob Solari | _____ |
| Vice Chairman Susan Adams | _____ |
| Commissioner Joseph E. Flescher | _____ |
| Commissioner Peter D. O'Bryan | _____ |
| Commissioner Tim Zorc | _____ |

The Chairman thereupon declared the ordinance duly passed and adopted this 18th day of June, 2019.

Attest: Jeffrey R. Smith, Clerk of Court and Comptroller

INDIAN RIVER COUNTY, FLORIDA,
by its Board of County Commissioners

By _____
Deputy Clerk

By _____
Bob Solari, Chairman

Approved as to form and legal sufficiency

William K. DeBraal
Deputy County Attorney

ACKNOWLEDGMENT by the Department of State of the State of Florida, this ____ day of _____, 2019.

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