

Meeting Date
9/16/2014



AGENDA	
Section	Public Hearings
Item No.	III.B.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Amend Brevard County Code of Ordinances Chapter 14, Article II, Animal Control
DEPT/OFFICE:	County Attorney / Brevard County Sheriff's Office

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider enactment of an ordinance amending the Brevard County Code of Ordinances, Chapter 14, Article II, Animal Control; providing for transition of animal control and animal services responsibilities from Brevard County Animal Services and Enforcement (BASE) to an appointed animal control authority; providing for and amending definitions; providing for and amending prohibited acts; providing for and amending enforcement and penalties; providing for severability and applicability; providing for inclusion in the Code of Ordinances; and providing for filing and an effective date.

Summary Explanation & Background:

On March 18, 2014, the Board of County Commissioners approved transferring the animal control and animal services responsibilities of Brevard County Animal Services and Enforcement (BASE) to BCSO, and appointing BCSO as the County's animal control authority. The County Attorney's Office and BCSO have cooperated in preparing amendments to Chapter 14, Article II, Animal Control that will enable BCSO, as the appointed animal control authority, to perform its responsibilities pursuant to the Interlocal Agreement between the County and BCSO.


In addition to the required amendments to allow BCSO to fully enforce Chapter 14, additional amendments are required to conform with revisions to the Florida Statutes and current case law, and to resolve inconsistencies and ambiguities. The proposed ordinance shows requested amendments in underline and strikethrough format.

Contact: Morris Richardson, Assistant County Attorney / 5-2090

Clerk to the Board Instructions:

Exhibits Attached: Interlocal Agreement between BoCC and BCSO; Proposed Ordinance

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager, Mel Scott	Department Director / Extension
Stockton Whitten	Assistant County Manager, Venetta Valdengo	 Scott Knox, County Attorney / 5-2090



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

September 17, 2014

MEMORANDUM

TO: Scott Knox, County Attorney Attn: Morris Richardson

RE: Item III.B., Amendment to Brevard County Code or Ordinances Chapter 14, Article II, Animal Control

The Board of County Commissioners, in regular session on September 16, 2014, adopted Ordinance No. 14-27, amending Brevard County Code of Ordinances, Chapter 14, Article II, Animal Control; providing for transition of animal control and animal services responsibilities from Brevard County Animal Services and Enforcement (BASE) to an appointed animal control authority; providing for amending definitions; providing for and amending prohibited acts; providing for an amending enforcement and penalties; providing for severability and applicability; providing for inclusion in the Code of Ordinances; and providing for filing and an effective date. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Etheridge

Tammy Etheridge, Deputy Clerk

Encl. (1)

cc: Sheriff Ivey

ORDINANCE NO.: 2014- 27

AN ORDINANCE AMENDING THE BREVARD COUNTY CODE OF ORDINANCES, CHAPTER 14, ARTICLE II, ANIMAL CONTROL; PROVIDING FOR TRANSITION OF ANIMAL CONTROL AND ANIMAL SERVICES RESPONSIBILITIES FROM BREVARD COUNTY ANIMAL SERVICES AND ENFORCEMENT (BASE) TO AN APPOINTED ANIMAL CONTROL AUTHORITY; PROVIDING FOR AND AMENDING DEFINITIONS; PROVIDING FOR AND AMENDING PROHIBITED ACTS; PROVIDING FOR AND AMENDING ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR FILING AND AN EFFECTIVE DATE.

WHEREAS, on March 18, 2014, the Board of County Commissioners approved transferring the animal control and animal services responsibilities of Brevard County Animal Services and Enforcement (BASE) to the Brevard County Sheriff's Office (BCSO); and

WHEREAS, the Board of County Commissioners and BCSO have entered into an interlocal agreement appointing BCSO as Brevard County's animal control authority; and

WHEREAS, certain amendments were required to Chapter 14, Article II, Animal Control, of the Brevard County Code of Ordinances, in order to authorize and provide for administration and enforcement of such ordinances by the appointed animal control authority; and

WHEREAS, additional amendments are required to conform with revisions to the Florida Statutes and applicable administrative codes, as well as developments in the case law; and

WHEREAS, certain amendments are necessary and desirable to resolve inconsistencies and ambiguities; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, hereby finds that adoption of this ordinance is in the interest of the health, safety, and welfare, of the people of Brevard County, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1: Chapter 14, Animal Control, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

ARTICLE II. ANIMAL CONTROL

- Sec. 14-36. Definitions.
- Sec. 14-39. Authority and purpose.
- Sec. 14-40. Jurisdiction.
- Sec. 14-41. Administration.
- Sec. 14-42. Enforcement and penalties.
- Sec. 14-43. Resisting, interfering with officer.
- Sec. 14-44. Impoundment of animals.
- Sec. 14-45. Disposition of impounded animals.
- Sec. 14-46. Unauthorized removal from custody.
- Sec. 14-47. Disposal of dead animals.
- Sec. 14-48. Quarantine of animals.
- Sec. 14-49. Classification of dogs as dangerous.
- Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation; destruction.
- Sec. 14-51. Failure to surrender animal or carcass.
- Sec. 14-52. Rabies vaccination of dogs, cats, and ferrets; rabies vaccination certificates and animal license tags.
- Sec. 14-53. Cruel and inhumane treatment of animals prohibited.
- Sec. 14-55. Responsibility for animals.
- Sec. 14-56. Animal at large.
- Sec. 14-57. Creation of nuisance.
- Sec. 14-58. Causing injury, property damage.
- Sec. 14-59. Defecating, urinating on public or private property.
- Sec. 14-60. Public parks and beaches.
- Sec. 14-61. Service animals.
- Sec. 14-62. Transporting in open bed of vehicle.
- Sec. 14-63. Confinement of females in estrus (heat).
- Sec. 14-64. Feral animals and feral cat colonies.
- Sec. 14-65. Abandonment of animals.
- Sec. 14-66. Mandatory neutering of cats and dogs.
- Secs. 14-67—14-85. Reserved.

Sec. 14-36. Definitions.

For the purposes of this article, the following words, terms and phrases, shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender. The word "shall" is always mandatory and not merely supervisory.

Abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

Animal shall have the meaning set forth in F.S. § 828.27, as may be amended from time to time.

Animal control authority means the entity tasked with animal control and animal services for the county. The animal control authority shall be designated by the board and authorized to enforce this article and the animal control laws of the state.

Animal control officer or *animal enforcement officer* shall have the meaning ascribed to "animal control officer" in F.S. § 828.27, as may be amended from time to time. The terms animal control officer and animal enforcement officer may be used interchangeably herein.

Applicable civil penalty means the civil penalty established by the board for violating a certain provision of this article.

At large means off the premises of the owner, whether on public or private property, and not under the physical control of any person by means of a leash, cord or chain of sufficient strength to control the animal, not to exceed six feet in length. A police dog or police horse, as defined in F.S. § 843.19, while in use by a law enforcement agency, shall not be deemed to be at large.

Baiting means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, "baiting" means the use of live animals in the training of racing greyhounds.

Board means the Board of County Commissioners of Brevard County, Florida.

Caregiver means any person who provides care, shelter, protection, refuge, or nourishment to any animal or undertakes the responsibility to do so, whether of their own volition or by request of the owner of that animal.

Citation means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of this article and that the county court will hear the charge. Pursuant to F.S. § 828.27, the citation shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.

- (5) The ordinance section violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court if a mandatory court appearance is required for the violation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

Council means the representatives designated to hear appeals of sufficient cause findings as set forth in section 14-49, below.

County means Brevard County, Florida.

Cruel treatment means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal.

Dangerous dog means any dog that, according to the records of the animal control authority:

- (1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property; or
- (3) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the animal control authority.

Domestic animal means any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea, or other domesticated beast or bird.

Farm animal means any animal that customarily is raised or bred on farms including grazing animals, such as cattle, horses, goats, or sheep, swine, other hoofed animals, bees, fowl or other animals commonly referred to as livestock.

Feral animal means an animal that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication and has no known owner. Stray animals may be feral or tame, but are considered feral where they are not known or are unwanted.

Harborer means any person or entity which provides care, shelter, protection, restraint, refuge, food or nourishment in such a manner as to control an animal's activities.

Inhumane treatment means acts which are physically cruel to an animal, or which expose an animal to unusual, unnecessary, and otherwise avoidable physical harm.

Kennel means any locked structure or enclosure in which an animal is humanely confined and secured.

License certificate means a county animal license certificate issued pursuant to this chapter.

License tag means a county animal license tag issued pursuant to this chapter.

Licensed veterinarian means any person who is licensed to engage in the practice of veterinary medicine in this state, under the authority of F.S. ch. 474.

Notice means written notice by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48 relating to service of process.

Nuisance means:

- (1) Disturbing the peace and quiet of any person by habitually or continually barking, howling, crying, screaming, or making other bothersome noises; or
- (2) Disturbing the peace of any person by habitually or repeatedly destroying, desecrating or soiling public or private property, chasing persons, livestock, cars or other vehicles, running at large, or other behavior that interferes with the reasonable use and enjoyment of the property.

Officer means any law enforcement officer defined in F.S. § 943.10 or any animal control officer or animal enforcement officer, as defined in this section.

Owner means any person, firm, corporation, partnership, association, trust, estate or any other legal entity, business unit or organization possessing, harboring, keeping or having control or custody of an animal temporarily or permanently, or, if the animal is owned by a person under the age of 18 years, that person's parent or legal guardian. This definition shall include any harbinger or caregiver.

Police dog means any dog that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

Probable cause means reasonable grounds, based on personal knowledge of facts and circumstances or trustworthy information, sufficient to warrant a belief that a violation of this article has been or is being committed.

Secure enclosure means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, consisting of at least 11 guage chain link wire, and a secure floor, to prevent the dog from escaping over, under, or through the structure, and shall also provide protection from the elements.

Service animal means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

Severe injury means any physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery. *Sustenance* means food or feed appropriate to the species consuming it and providing the essential materials for good health, growth, reproduction and general life functions. It also includes clean, potable water in sufficient quantity and quality to sustain vital functions of the animal and to which the animal has constant access. Both food and water must be in containers designed and situated to allow the animal easy access to them.

Underground pet containment system means a device, which uses a buried wire along the perimeter of a premises that transmits a signal to a receiver attached to the collar of an animal, which gives the animal an electronic shock or other warning when the animal approaches the buried perimeter wire to prevent said animal from leaving the premises. This definition includes buried electrical fencing and invisible fencing.

Unprovoked means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

Zoonoses or zoonotic disease means those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

Sec. 14-39. Authority and purpose.

This article is hereby enacted pursuant to the provisions of F.S. §§ 125.01 and 828.27, and F.S. ch. 767, with the purpose of regulating the possession, ownership, keeping, care and custody of animals, in the interest of the health, safety and welfare of the people of the county.

Sec. 14-40. Jurisdiction.

This article shall be effective throughout the unincorporated areas of the county and within the incorporated areas of the county to the extent this article does not conflict with any applicable municipal ordinance.

Sec. 14-41. Administration.

- (a) The board shall designate an animal control authority to administer and enforce the provisions of this article.
- (b) The animal control authority may employ animal control officers to assist in the administration and enforcement of this article. Such animal control officers shall successfully complete a training program in accordance with F.S. § 828.27.
- (c) Animal control officers are not authorized to bear arms or make arrests.
- (d) The animal control authority shall investigate complaints of alleged violations of this article.
- (e) The animal control authority and its officers are hereby authorized to catch, seize or pick up:
 - (1) Any sick or injured animal, including any animal subject to cruelty, or in need of immediate medical attention.
 - (2) Any animal infected with, or suspected of carrying, rabies or any other infectious disease.
 - (3) Any dangerous dog not properly confined or restrained.

- (4) Any animal not properly quarantined.
- (5) Any animal at large.
- (6) Any animal causing injury, or threat of injury, to any person by being at large, endangering or chasing persons, or by causing property damage to a person other than the owner of the animal.
- (7) Any female dog or cat in estrus (heat) not properly confined.
- (f) The animal control authority shall impound any animal caught, seized, or picked up pursuant to this article.
- (g) The animal control authority may engage the services of a licensed veterinarian to treat any sick or injured animal, including any animal subject to cruel or inhumane treatment, or any animal infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.
- (h) The animal control authority may declare a dog to be a dangerous dog, pursuant to the provisions of this article, and shall order the owner of such dog to confine or restrain such dog as required by this article. Officers shall routinely inspect the premises of the owner of such dog to determine compliance with any order of the animal control authority under this section, and all other provisions of this article.
- (i) The animal control authority shall conduct an ongoing public information campaign on the problems resulting from abandoning and neglecting animals, and the penalties under law for abandoning or neglecting animals.

Sec. 14-42. Enforcement and penalties.

- (a) Any officer who has probable cause to believe that any person has committed an act in violation of this article may issue a citation to such person.
- (b) Unless otherwise specified, any violation of this article constitutes a civil infraction and may be punishable by a maximum civil penalty not to exceed \$500.
- (c) Within 30 days of the issuance of a citation for a violation of this article, the person cited must comply with one of the following options for disposition of the citation:

- (1) Pay the applicable civil penalty together with the court filing fee and animal control officer training surcharge to the clerk of the county court within 30 days in the manner provided on the citation form. A person making this election shall be deemed to have admitted the infraction and waived the right to a hearing; or
 - (2) Request a hearing to contest the citation in county court, as provided by F.S. § 828.27, through the clerk of the county court, in the manner provided on the citation form.
 - i. The clerk shall schedule a hearing in the county court and cause the person contesting the citation, the citing officer, and any witnesses to be notified of the court hearing by summons.
 - ii. The standard of proof in the court hearing shall be a preponderance of the evidence.
 - iii. Contesting the citation shall be deemed a waiver of any right to pay the applicable civil penalty, and upon a finding by the court that the civil infraction was committed, the court may order the violator to correct the violation and impose a penalty up to the maximum civil penalty of \$500 plus all costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty. The judge may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the judge determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or correct the violation within the time provided, a civil judgment shall be entered against that person in the amount adjudicated, and any other lawful sanctions may be imposed by the court.
 - (3) If the person is required to appear in court by this article, as indicated on the citation, he or she does not have the option of paying a civil penalty in lieu of appearing in court.
- (d) Pursuant to F.S. § 828.27(2)(f), if the person cited fails to pay the applicable civil penalty within 30 days, fails to appear in court to contest the citation, or fails to appear in court as required by this article and indicated on the citation, the court may issue an order to show cause upon the request of the animal control authority. This order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in

response to the court's directive, that person may be held in contempt of court and a civil judgment shall be entered against the person in an amount not to exceed the maximum civil penalty of \$500 plus all applicable costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty.

- (e) Payment of any civil penalty imposed by the county court shall be made to the clerk of court, who shall forward the monies collected to the county.
- (f) Civil penalties imposed pursuant to this article shall be independent of and in addition to any fees, cost, or charges arising from the impoundment or registration of animals as provided in this chapter.
- (g) As provided by F.S. § 828.27(4)(b), there shall be imposed and collected a surcharge of \$5 upon each civil penalty imposed for violation of this article. The proceeds from such surcharges shall be used to pay the costs of training for animal control officers.
- (h) Nothing in this article shall prevent officers from charging violations relating to animal control or cruelty as criminal offenses, when so provided by state law.
- (i) In addition to the penalties otherwise provided in this article, the board, or the animal control authority as its designee, shall have the right to enforce by injunction, or any other appropriate legal means, compliance with the regulations and requirements of this article.

Sec. 14-43. Resisting, interfering with officer.

It is a violation of this article for any person to resist, obstruct, hinder or interfere with an officer in the administration or enforcement of this article. Pursuant to F.S. § 828.27(5), any person who willfully refuses to sign and accept a citation issued by an officer may be charged with a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

Sec. 14-44. Impoundment of animals.

- (a) The animal control authority may operate and maintain county shelters, or contract for other shelter facilities, to impound any animal authorized to be caught, seized or picked up by the animal control authority.
- (b) It is a violation of this article for any person to remove, or attempt to remove, any impounded animal from a county shelter or other shelter facility contrary to the provisions of this section.

- (c) Any animal found to be cruelly or inhumanely treated, in obvious distress, or infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article, may be seen by a veterinarian without the owner's consent for examination and treatment, if necessary. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.
- (d) By resolution, the board shall establish fees to be charged for impounding, boarding, care and feeding animals pursuant to this article.
- (e) No animal impounded pursuant to this article shall be released until:
 - (1) The owner of an impounded animal, or which does not have a valid rabies license tag, arranges for rabies vaccination and obtains an animal license tag for the animal;
 - (2) The owner of an impounded animal pays the fees for impoundment, board and feed, and any additional fees for rabies vaccination, veterinary expenses, any and all current or outstanding citation fines and/or an animal license tag; and
 - (3) The owner of an impounded animal provides proof of ownership or custody, such as a rabies vaccination certificate, sales receipt, affidavits of neighbors, photographs or other documentary evidence.
 - (4) If the animal is a dangerous dog, in addition to the foregoing requirements, the owner of such animal complies with all provisions of this article applicable to such dangerous dog.
 - (5) If the animal is, or will be, subject of a petition seeking relief pursuant to F.S. § 828.073, the court of competent jurisdiction issues an order that the owner is able to adequately care for, and have custody of, the animal, directing the sale or destruction of the animal, or remanding custody of the animal to the animal control authority or other person or agency.
 - (6) Lawful exercise of discretion by the animal control authority to destroy an animal or the failure of an owner to redeem an animal shall not relieve the owner of liability for violations, fines and accrued charges and fees, regardless of the ultimate disposition of the animal.

Sec. 14-45. Disposition of impounded animals.

- (a) The animal control authority shall attempt to identify and locate the owner of an animal impounded pursuant to this article. If the owner is identified and located, the animal control authority shall provide notice to the owner that the animal has been impounded and may be redeemed within five (5) business days of such notice. The five-business-day period for redemption shall not include the first day of impoundment. In the event that the last day of impoundment falls on a day that the animal shelter is not open for business, the animal shall be held until the end of the following day that the animal shelter is open for business. Fees shall be assessed beginning on the first day of impoundment. For purposes of calculating fees, each day in which the animal spent any time in impoundment is counted as a full day.
- (b) An animal impounded pursuant to this article shall become the property of the animal control authority when:
- (1) The owner of such animal is not identified or located within five day after impoundment.
 - (2) The owner of such animal is notified, but does not redeem the animal within the five-day redemption period.
 - (3) If the animal is wild or feral, impoundment creates unusual risks to such animal or any person.
 - (4) A licensed veterinarian determines that the medical condition of the animal warrants humane destruction.
- (c) When an animal becomes the property of the county, the animal control authority may, without further notice to the former owner:
- (1) Transfer ownership of such animal to a humane society, humane agency, law enforcement agency, zoo or other person, institution or agency, provided that such person, institution or agency agrees to record the name and address of the new owner upon subsequent transfer of ownership of the animal; or
 - (2) Destroy such animal in a humane manner.
- (d) Any livestock, as defined in F.S. § 588.13, impounded pursuant to this article shall be disposed of as provided by F.S. ch. 588.

Sec. 14-46. Unauthorized removal from custody.

It is a violation of this article for any person to remove, or attempt to remove, an animal from the custody of the animal control authority.

Sec. 14-47. Disposal of dead animals.

- (a) By resolution, the board shall establish fees to be charged by the animal control authority to dispose of domestic dead animals from private property.
- (b) The owner of any real property may bury or dispose of any dead animal on such property after notice to the animal control authority, unless otherwise prohibited by law.

Sec. 14-48. Quarantine of animals.

- (a) The provisions of F.A.C. ch. 64D-3, as may be amended or renumbered from time to time, which relate to diseased animals, the quarantine of animals, and zoonosis control and prevention, are hereby adopted by reference in this article. A copy of F.A.C. ch. 64D-3 has been attached to the ordinance enacting this article, and is available for inspection in the office of the clerk to the board of county commissioners.
- (b) It is a violation of this article for any person to commit an act, or cause an act to be committed, which is in violation of any provision of F.A.C. ch. 64D-3 which relates to diseased animals, the quarantine of animals, and zoonosis control and prevention.
- (c) Suspected rabid animals, including animals involved in human exposure (bite and non-bite) and animals exposed to rabid or suspected rabid animals, shall be isolated and quarantined or humanely euthanized in accordance with F.A.C. 64D-3.040(3), as may be amended or renumbered from time to time. If quarantine of an animal cannot be maintained at the owner's home, or at another location permitted under F.A.C. 64D-3.040(3), the animal shall be quarantined at a county animal shelter or at a licensed veterinary clinic having recognized isolation procedures, at the owner's expense. It is a violation of this article for the owner of any animal to refuse or fail to maintain the animal under rabies quarantine, as required by F.A.C. 64D-3.040(3) and section 14-41 of this article.
- (d) By resolution, the board shall establish fees to be charged for quarantine of animals pursuant to this article.
- (e) Police dogs and service dogs that have current rabies vaccination administered by a licensed veterinarian are exempt from confinement under this section as provided in F.S. § 767.16.

Sec. 14-49. Classification of dogs as dangerous.

- (a) The animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any officer, desiring to have a dog classified as dangerous. If the animal is quarantined or impounded pursuant to section 14-50 of this article, the animal shall remain impounded and be disposed of in accordance with that section. Any animal that is the subject of a dangerous dog investigation, that is not impounded with the animal control authority shall be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. The owner shall provide the address where the dog shall be so confined, and the manner of confinement, to the animal control authority. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification. In the event that a dog is to be destroyed, these same provisions shall apply and the dog shall not be relocated or ownership transferred.
- (b) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (c) 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 shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control authority shall provide written notification of the sufficient cause finding, 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 hearing at the address indicated on the sufficient cause finding within 7 calendar days from the date of receipt of the notification of sufficient cause finding and, if requested, 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 from the owner. Such hearing shall be conducted according to the procedures set forth in subsection (f) below. If the owner fails to request a hearing within 7 calendar days from the date of receipt of the notification of sufficient cause finding, no further hearing or appeal procedure shall be available to the owner, and the animal shall be classified as a dangerous dog. The animal

control authority shall provide written notification to the owner by registered mail, certified hand delivery or service.

- (d) The board shall appoint an animal control council to conduct dangerous dog classification hearings. The council members shall be one veterinarian and one alternate veterinarian, one dog behavioral trainer and one alternate dog behavioral trainer, and one kennel worker and one alternate kennel worker. Council members shall serve one year or until a replacement is duly appointed. The animal services and enforcement council shall adopt rules of procedure to govern such hearings, as necessary. A copy of the rules of procedure shall be made available to any person who requests a hearing. The council is not an advisory board subject to the uniform advisory board ordinance, and public comment shall not be required at each council meeting. The council shall hear all relevant evidence from the animal owner, the animal control authority, and any witness with information relevant to the dangerous dog classification, including any victim, if applicable. Within 7 calendar days of the hearing described above, the council shall determine if a dog is to be classified as a dangerous dog. The animal control authority shall provide notice of the council's determination to the owner by registered mail, certified hand delivery or service. If classified as dangerous, the notice shall include the basis for declaring the dog dangerous, a description of the dog, and describe the responsibility of the owner for maintenance of the dog under this article.
- (e) If the owner appealed the sufficient cause finding to the council pursuant to the provisions of subsection (c) above, and the council determined the dog to be a dangerous dog, the owner may file a written request for a hearing in the county court in and for Brevard County, Florida to appeal the classification within 10 business days after receipt of the council's written determination. The owner or the county must continue to confine the dog in a securely fenced or enclosed area pending a resolution of the appeal.
- (f) Within 14 days after a dog has been classified as dangerous by the animal control authority or the animal control council, or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority, and the certificate shall be renewed annually. The animal control authority is authorized to issue such certificates of registration, and the renewals thereof, only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:
 - (1) A current certificate of rabies vaccination and animal license tag for the dog.

- (2) A locked, secure enclosure to confine the dangerous dog, and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
- (3) Permanent identification of the dangerous dog, such as a tattoo or an electronic implantation, as specified by the animal control authority, within 24 hours of release.
- (4) Payment of the applicable annual fee for the issuance of certificate of registration required by this section. The annual fee shall be established by resolution of the board.
- (5) Payment of any boarding costs, impound fees, any and all current or outstanding civil citations, and any other fines or fees associated with, related to, or arising from the incident, investigation, and any hearing or appeal procedure under this section.
- (6) Proof that the owner has procured liability insurance in the amount of at least \$100,000.00 covering any damage or injury which may be caused by the dangerous dog during the 12-month period for which licensing is sought. The owner shall name the animal control authority as a certificate holder and notify the animal control authority of any cancellation, modification, expiration or termination of the liability policy required by this section.
- (7) The owner shall obtain a dangerous dog tag from the animal control authority which shall be worn by the dog at all times. The purpose of the tag shall be to provide immediate identification to the animal control authority and the public that the dog has been declared dangerous.
- (8) The owner shall have the dangerous dog sterilized and shall present appropriate evidence of said sterilization by the veterinarian who performed the operation within 60 days of the effective date of the dangerous dog declaration.
- (9) Within 90 days, the owner shall attend a dangerous dog owner orientation course conducted by the animal control authority.
- (10) Five years after the date that the dog was declared dangerous, the owner may request a reduction of the annual dangerous dog certification fee, as provided by resolution. Any such request shall be granted in the event that there have been no violations of this article since the dog was declared dangerous.

- (g) The owner shall immediately notify the animal control authority when a dog that has been declared as dangerous is:
 - (1) Loose, at large or unconfined.
 - (2) Has bitten a human being or attacked another animal.
 - (3) Is sold, given away, stolen or dies.
 - (4) Is moved to an address other than that stated in the certificate of registration.

Prior to a dangerous dog being 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 article. The animal control authority must be notified by the owner of a dog classified as dangerous when that dog is moved into the county. When the animal control authority receives notice that a dog classified as dangerous is to be moved out of the county, the animal control authority shall provide courtesy notice to the animal control authority of the receiving jurisdiction.

(h) It is a violation of this article for the owner of a dangerous dog to permit, whether intentionally or negligently, the dog to be outside of the locked, secure enclosure described in subsection (f)(2) hereof, unless the dog is muzzled and restrained by a substantial, non-retractable 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 any 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 owner's immediate household are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

- (i) This section does not apply to dogs used by law enforcement officials for law enforcement work.
- (j) The owner of a dangerous dog shall permit unannounced inspections by animal services and enforcement to determine the owner's compliance with this section.
- (k) Hunting dogs are exempt from the provisions of 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 the provisions of this act when engaged in any legal procedures. However, such dogs at all other times and respects shall be subject to this section. Dogs that have been classified as dangerous shall not be used for hunting purposes.

- (l) Any person who fails to comply with any provision of this section commits a violation of this article. In addition to the applicable civil penalty, if a violation results in an immediate and direct risk of harm to the general public, the animal control authority shall impound the dangerous dog to dispose of such in a humane manner, after written notice to the owner. If the owner of a dog impounded under this subsection believes that there has not been such a violation, the owner may file a petition for injunctive relief in the circuit court of the eighteenth judicial circuit in and for the county, that the impounded dog not be destroyed. The petition must be filed within the ten business days of the owner's receipt of notice of impoundment of the dog, and notice of the petition must be timely served upon the animal control authority. If the circuit court finds that there has been no violation of this section, such dog shall be released to the custody of the owner. In the event that the circuit court denies the petition for injunction, the owner shall be responsible for all impoundment fees and maintenance costs incurred for such dog.

Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation; destruction.

(a) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, pursuant to F.S. § 767.13, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure.

(b) If a dog that has not been previously declared dangerous under this article attacks and causes severe injury to, or death of, any human, the dog shall be immediately confiscated by county animal services and enforcement, placed in quarantine, if necessary, for the proper length of time or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure. In addition, pursuant to F.S. § 767.13, if the owner of the dog

had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

- (c) If a dog that has been previously declared dangerous under this article attacks and causes severe injury to or death of any human, pursuant to F.S. § 767.13, the owner of the dangerous dog is guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084. In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure.
- (d) If the owner files a written appeal under section 14-49 or this section, the dog must be impounded and held and may not be destroyed while the appeal is pending.
- (e) Pursuant to F.S. § 767.13, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime or noncriminal violation specified under this section.
- (f) In the event it is determined that humane destruction of a dog is justified pursuant to this section, the owner is guilty of a noncriminal violation of this article and subject to a civil penalty, in addition to any criminal charges.

Sec. 14-51. Failure to surrender animal or carcass.

It is a violation of this article for any person to fail to surrender an animal for rabies quarantine, impoundment or destruction, or produce the carcass of a dead animal, upon lawful demand by the animal control authority or any officer. A citation issued pursuant to this section shall be set for a mandatory hearing in county court no later than five days from the issuance of the citation. In addition to the civil penalty provided in this article, the county court shall order the person to comply with the lawful demand for surrender or production by injunction, or any other appropriate legal means.

Sec. 14-52. Rabies vaccination of dogs, cats, and ferrets; rabies vaccination certificates and animal license tags.

- (a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species. The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.
- (b) Each ferret vaccinated according to this section must be quarantined, when necessary, according to rules of the Department of Health.
- (c) A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that at the time vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits.
- (d) The owner of a dog, cat, or ferret in the county that is vaccinated against rabies shall obtain a rabies vaccination certificate. Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. The animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the animal control authority that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies vaccine to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature. An identification number shall be printed on the rabies vaccination certificate and shall correspond to the same number on the animal license tag, if required.
- (e) The owner of a dog or cat shall obtain an animal license tag within 28 days of establishing residency in the county, which tag shall be renewed annually. The animal control authority shall approve the form, content and design of the animal license tag. No other animal license tag shall be valid in the county. Animal license tags shall be issued by the animal control authority, or any licensed veterinarian who administers a rabies vaccination and has been authorized by the county to collect the fee for such animal license tag. An animal license tag shall be valid for a period of one year from the date of issuance. All veterinarians in the county shall display, in a conspicuous place that can be seen and easily read by all

customers, a sign indicating that county license tags are required and indicating where they can be purchased.

- (f) The license tag shall be attached to the collar or harness of the dog or cat and shall be worn at all times, except when such animal is confined for treatment in a veterinary hospital or clinic operated by a licensed veterinarian, or while competing in an organized animal show, trial, or training therefor, or by a police dog while being used by law enforcement officials for law enforcement work.
- (g) By resolution, the board shall establish and may change fees to be charged for issuance of rabies vaccination certificates and animal license tags. Any resident of the county who owns or keeps a service animal, and which is being used to assist a disabled person, as defined under the Americans With Disabilities Act, may obtain an animal license tag, when applicable, at no charge.
- (h) If an animal license tag is lost or destroyed, the animal owner shall obtain a replacement animal license tag. A replacement animal license tag may be issued to the owner upon presentation of the corresponding rabies vaccination certificate and payment of the applicable fee.
- (i) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to have the animal vaccinated against rabies as required by this section.
- (j) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to obtain or renew a rabies vaccination certificate or animal license tag when required by this section.
- (k) The owner commits a violation of this article if the owner's dog or cat is without a physically attached animal license tag as required by this section.
- (l) The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has expired.
- (m) A rabies vaccination certificate or animal license tag issued for one ferret, dog or cat is not valid for any other animal. The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has not been issued for such animal, or if the owner presents a rabies vaccination certificate issued for another animal for the purpose of obtaining an animal license tag or demonstrating compliance with this section.

- (n) Pursuant to F.S. § 828.30, an animal owner's name, street address, phone number, and animal license tag number contained in a rabies vaccination certificate provided to the animal control authority is exempt from F.S. § 119.07(1) and section 24(a), Art. I of the State Constitution. However, any person who has been bitten, scratched, or otherwise exposed to a zoonotic disease or the physician of such person; a veterinarian who is treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or the owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease shall be provided with any information contained in a rabies vaccination certificate but only with respect to the particular animal biting, scratching, or otherwise causing exposure. Any person with an animal tag license number may receive vaccination certificate information with regard to that animal. Law enforcement and prosecutorial agencies; other animal control authorities; emergency and medical response and disease control agencies; or other governmental health agencies shall be provided information contained in the rabies vaccination certificate for the purpose of controlling the transmission of rabies; however, the receiving agencies and authorities must not release the exempt information.

Sec. 14-53. Cruel and inhumane treatment of animals prohibited.

It is a violation of this article for any person to commit cruel or inhumane treatment to any animal. The civil penalty provided for a violation of this section is in addition to, and separate apart from, any criminal penalty for a violation of F.S. §§ 828.12 or 828.13. The term "cruel treatment" means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal. The term "inhumane treatment" means acts which are physically cruel or expose an animal to unusual, unnecessary and otherwise avoidable physical harm. The following acts shall be deemed cruel or inhumane treatment to animals; however, this list shall not be construed as excluding other acts which may amount to cruel or inhumane treatment:

- (a) Unnecessarily overloading, overdriving, tormenting, or unnecessarily beating, mutilating or killing any animal, or causing the same to be done, or carrying in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner;
- (b) Intentionally committing an act to any animal, or the person who owns or has custody or control of any animal failing to act, which act or omission results in the animal's cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causing the same to be done;
- (c) Tripping, felling, roping, or lassoing the legs of a horse by any means for the purpose of entertainment or sport, where "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid

thereof, except that this subsection shall not apply when tripping is used to:

- (1) control a horse that is posing an immediate threat to other livestock or human beings;
 - (2) for the purposes of identifying ownership of the horse when its ownership is unknown; or
 - (3) for the purpose of administering veterinary care to the horse;
- (d) Impounding or confining any animal in any place and failing to supply that animal, during such confinement, with a sufficient quantity of good and wholesome food and water;
 - (e) Keeping any animal in any enclosure without wholesome exercise, rest, sanitary conditions and change of air;
 - (f) Abandoning to die any animal that is maimed, sick, infirm, or diseased;
 - (g) Abandonment by the owner or possessor, or person who has charge or custody, of any animal to suffer injury or malnutrition;
 - (h) Abandonment by the owner or possessor, or person who has charge or custody, of any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal
 - (i) Failing to either provide reasonable veterinary care to any maimed, sick, infirm, or diseased animal, or have such animal expeditiously and humanely euthanized, which failure results in the cruel death, or excessive or repeated exposure to unnecessary pain and suffering;
 - (j) Using any animal for baiting or fighting, including, but not limited to, dog fighting, cock fighting, or training any animal for fighting;
 - (k) Intentionally poisoning any animal, or putting out or placing poison at any point or place outside where any animal may access the poison; or
 - (l) Leaving any animal unattended in a parked vehicle with inadequate or no ventilation;
 - (m) Failing to provide adequate shade or protection from the elements; or
 - (n) In the case of a stunt or entertainment act:
 - (1) failing to make allowance for an animal's reasonable limits of endurance;
 - (2) failing to determine whether equipment operated in conjunction with the working animal is in safe operating condition;

- (3) an animal is killed or injured during the stunt or act; or
- (4) any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof, including a horse, mule or donkey, is allowed to fall or drop into water from a platform or structure more than ten feet above the water.

Sec. 14-55. Responsibility for animals.

- (a) The owner of any animal shall exercise reasonable care to protect humans, other animals or property from injury or damage caused by the behavior of such animal.
- (b) The owner of an animal shall exercise reasonable care to prevent such animal, while unattended, from leaving the premises of such owner by:
 - (1) Confinement in a securely enclosed, fence, pen or structure from which the animal cannot dig, climb, jump or escape and which is locked when the animal remains unattended;
 - (2) Restraint by chain, cable and trolley, or other tether of sufficient strength to prevent escape; or
 - (3) Leash and physical control of a person capable of preventing such animal from escaping.
- (c) The use of an underground pet containment system as the sole means of restraining an animal shall not constitute reasonable care as specified in this section.
- (d) The owner of an animal shall exercise reasonable care to maintain such animal off the premises of such owner by:
 - (1) Confinement in a vehicle from which the animal cannot climb, jump or escape; or
 - (2) Leash and physical control of a person capable of preventing such animal from escaping.
- (e) It is a violation of this article for an owner or caregiver not to exercise reasonable care in restraining animals as specified in this section.

Sec. 14-56. Animal at large.

No animal shall be permitted, or allowed to be at large. It is a violation of this article for the owner of an animal to permit or allow the animal to be at large, whether

willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55.

Sec. 14-57. Creation of nuisance.

- (a) No animal shall be permitted or allowed to create a nuisance. It is a violation of this article for the owner of an animal to permit or allow the animal to create a nuisance.
- (b) For the purposes of this section, noise from farm animals, including exotic birds, shall not constitute a nuisance within an AU zoning classification; provided, however, that the following setback requirement shall apply only to exotic birds kept on AU property which abuts non-AU property of a residential character: A minimum set back of 100 feet between the noise source and the abutting non-AU residential property.
- (c) Any nuisance complaint may be investigated by the animal control authority. However, before a citation may be issued, the officer must have personal knowledge of the nuisance or at least two affidavits from different parties residing in close proximity to the alleged nuisance must be received. One affidavit may be sufficient to warrant investigation where there is only one party in close proximity to the alleged nuisance.
- (d) It shall be an unlawful nuisance for an animal owner to either be found guilty of or effectively admit guilt to more than four violations of this article within a 12-month period of time. The failure to contest or pay a citation shall be considered an effective admission of guilt for the purposes of this section. A violation of this section is a civil infraction punishable by a fine not to exceed \$500.00.

Sec. 14-58. Causing injury, property damage.

No animal shall cause injury, minor or severe, or threat of injury, to any person, or domestic animal, or cause any property damage to a person other than the owner. It is a violation of this article for the owner of an animal to permit or allow, whether willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55, the animal to violate this section.

Sec. 14-59. Defecating, urinating on public or private property.

No animal shall be permitted or allowed to defecate or urinate upon any public property, or any private property, without permission of the property owner. It shall be the responsibility of the owner or person in control of the animal to dispose of or remove any excretions caused by the animal. It is a violation of this article for the owner of an animal to permit or allow the animal to defecate or urinate upon any public property, or any private property, without permission of the property owner.

Sec. 14-60. Public parks and beaches.

- (a) No animal shall be permitted or allowed into or on any public park or beach; provided, however, that an area in a public park or beach may be designated for animals by resolution of the board, or by the governing body of any applicable municipality. In that event, the area provided for animals must be properly identified and posted by the county or the appropriate municipality.
- (b) It is a violation of this article for the owner of an animal to permit or allow the animal into, or on, any public park or beach not designated for animals and not properly identified and posted. However, a disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied into or on any public park or beach by a service animal without violating this section.

Sec. 14-61. Service animals.

Every disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied by a service animal.

Sec. 14-62. Transporting in open bed of vehicle.

Any animal being transported in the open bed of a pickup truck or other similar vehicle from which the animal can easily escape shall be confined inside a locked animal carrier or restrained by a minimum of two tethers, with one tether each being affixed to the opposite side of the vehicle, and both tethers being attached to the collar or harness of such animal. It is a violation of this article for the owner of an animal, as well as the driver of the pickup truck or other similar vehicle being used to transport an animal, to refuse or fail to confine or restrain the animal being transported as required by this section.

Sec. 14-63. Confinement of females in estrus (heat).

Any female dog or cat in estrus (heat) shall be confined so as to prevent such dog or cat from coming in contact with another dog or cat, except for intentional breeding purposes. It is a violation of this article for the owner of a female dog or cat in estrus to refuse or fail to confine the dog or cat as required by this section.

Sec. 14-64. Feral animals and feral cat colonies.

- (a) The county may establish a fund or provide services to offset costs of trapping, neutering and vaccinating captured feral cats that can be returned to an appropriate, controlled, and registered colony site. Caregivers for such colonies, whether one or several animals, will be

aided by the county in properly managing and caring for those colonies, to the extent that funding is available.

- (b) Each feral cat colony will be registered by the caregivers with an agency designated by the county, which will serve as a clearinghouse for information on current caregivers, education for new caregivers, and assistance for persons found in violation of subsections(c)(1) through (4) below.
- (c) Any feral cat picked up by the animal control authority which has an appropriate ear tipping or other distinguishing mark indicating it belongs to a registered feral cat colony will be returned to that colony unless veterinary care is required or the criteria listed in subsection 14-64(d) applies. The designated agency will be notified in such instances.
- (d) Any person or caregiver determined to be in violation of subsections (1) through (4) below, shall be issued a written warning and be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance. That period of time shall not exceed 90 days from issuance of the initial warning notice. Failure to comply shall result in a violation of this article, which may result in the issuance of a citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:
 - (1) Register the feral cat colony with the agency designated in subsection (b).
 - (2) Assure responsibility and arrangements for feeding the cat or cat colony regularly throughout the year, including weekends, holidays and vacations of the feral cat caregiver.
 - (3) Sterilize (neuter) all adult cats that can be captured.
 - (4) Vaccinate, as required by law, all cats that can be captured:
 - a. Against rabies, preferably with a three-year vaccine,
 - b. And any other infectious disease as mandated by law.
 - (5) Make every attempt to sterilize all kittens over eight weeks of age and before 16 weeks of age.
 - (6) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.

- (7) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or humane euthanasia.
 - (8) Ear crop all cats with a single cut preferably on the left ear, at least one inch from the outside tip of the auricle. Providing either a tattoo on the inside of the right ear or an electronic implant will aid in animal identification.
 - (9) Maintain proof of sterilization, vaccination, tattoo or implant and medical records for all cats. These records must be provided to animal services and enforcement upon request.
- (e) The animal control authority has the right to immediately seize and remove all, or parts, of any colony for the following reasons:
- (1) Public health and public safety concerns including rabies, other epizootic and certain zoonoses identified by the county public health unit; or
 - (2) Animals creating a public nuisance as defined in section 14-36. The designated agency will be notified within 24 hours of removal of any feral cats.
- (f) In the event the feral cat caregiver fails to comply with this section, the designated agency will be notified at least a day before removal of any animal. The designated agency will attempt to resolve the situation prior to removal by the animal control authority.

Sec. 14-65. Abandonment of animals.

Pursuant to F.S. § 828.13, any person who is the owner, possessor, or caregiver, or has charge or custody of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in or on a street, road or public place without providing for the care, sustenance, protection and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 770.82, or a fine of not more than \$5,000.00 or by both imprisonment and a fine.

Sec. 14-66. Mandatory neutering of cats and dogs.

- (a) All cats and dogs offered for adoption by any public or private animal shelters in the county must be sterilized (spayed or neutered), by either:
 - (1) Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. The shelter or animal control authority shall require a sufficient deposit from the adopter or purchaser, which deposit shall be refundable upon presentation to the shelter or animal control authority of written evidence by the veterinarian performing the sterilization that the animal has been sterilized. The deposit or donation may be based upon recommended guidelines established by the Florida Federation of Humane Societies, and in the case of county owned shelters, shall be established by resolution of the board. Failure to comply with the provisions of this subsection shall be a noncriminal violation, punishable by civil penalty and forfeiture of the deposit or donation to the shelter or animal control authority. Any legal fees or court costs used for the enforcement of this subsection are the responsibility of the adopter. Upon the request of a licensed veterinarian, and for a valid reason, the shelter or animal control authority shall extend the time limit within which the animal must be sterilized.

(b) It is a violation of this article for any person to fail to comply with the provisions of this section.

Secs. 14-67—14-85. Reserved.

Civil Penalties for Civil Infractions
Includes Applicable Civil Penalty + \$10.00 Court Cost + \$5.00 Officer Training Surcharge

Code Section	Description of Violation	Offenses			
		1st	2nd	3rd	4th
14-43	Resisting, interfering with officer	\$300.00	\$400.00	\$500.00	\$500.00
14-44(b)	Unlawful or unauthorized removal of animal from shelter	\$65.00	\$115.00	\$215.00	\$415.00
14-46	Removal of animal from custody of animal control authority	\$65.00	\$115.00	\$215.00	\$415.00
14-48	Violation of quarantine (ch. 64D-3, Florida Administrative Code) (\$215.00	\$315.00	\$415.00	\$500.00
14-49	Violation of dangerous dog restrictions	\$500.00	\$500.00	\$500.00	\$500.00
14-50(f)	Attack, bite or injury by dangerous dog; attack causing severe injury	\$500.00	\$500.00	\$500.00	\$500.00
14-51	Failure to surrender animal or carcass	\$300.00	\$300.00	\$300.00	\$300.00
14-52(i)	Failure to vaccinate dog, cat, or ferret	\$120.00	\$215.00	\$315.00	\$415.00

14-52(j)	Failure to obtain rabies certificate or animal license tag	\$120.00	\$215.00	\$315.00	\$415.00
14-52(k) or (l)	Dog or cat without attached animal license tag or with expired tag	\$40.00	\$65.00	\$65.00	\$65.00
14-52(m)	Animal license tag or rabies certification used for animal other than that for which it was issued	\$100.00	\$200.00	\$300.00	\$400.00
14-53	Cruel or inhumane treatment	\$200.00	\$300.00	\$400.00	\$500.00
14-55	Failure to properly secure animal	\$55.00	\$165.00	\$265.00	\$415.00
14-56	Animal at large	\$55.00	\$165.00	\$265.00	\$415.00
14-57	Creation of a nuisance	\$100.00	\$200.00	\$300.00	\$400.00
14-58	Animal causing property damage	\$100.00	\$200.00	\$300.00	\$400.00
14-58	Attack causing injury	\$220.00	\$315.00	\$415.00	\$465.00
14-59	Animal defecating/urinating on property	\$50.00	\$65.00	\$65.00	\$65.00
14-60(b)	Animal on public park or beach	\$55.00	\$65.00	\$65.00	\$65.00
14-62	Failure to confine or restrain animal in pickup truck	\$100.00	\$200.00	\$300.00	\$400.00
14-63	Failure to confine female dog or cat in heat	\$200.00	\$300.00	\$400.00	\$500.00
14-66	Failure to comply with mandatory neutering	\$75.00	\$125.00	\$250.00	\$500.00

Section 2. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

Section 3. Inclusion in 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 Code of Ordinances of Brevard County, Florida, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate, federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

Section 5. Area Encompassed. This ordinance shall be effective throughout the unincorporated areas of Brevard County, Florida, and within the incorporated areas of Brevard County, Florida to the extent this ordinance does not conflict with any applicable municipal ordinance.

Section 6. Effective Date. This ordinance shall take effect on the later of October 1, 2014, or upon adoption and filing as required by law. A certified copy of this ordinance shall be filed with the Office of the Secretary, State of Florida within ten (10) days of enactment.


DONE, ORDERED AND ADOPTED, in regular session, this 16 day of September, 2014.

ATTEST:



Scott Ellis, Clerk

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**

By: 

Mary Bolin Lewis, Chairman
As approved by the Board on 09-16-14

ARTICLE II. ANIMAL CONTROL

- Sec. 14-36. Definitions.
- Sec. 14-39. Authority and purpose.
- Sec. 14-40. Jurisdiction.
- Sec. 14-41. Administration.
- Sec. 14-42. Enforcement and penalties.
- Sec. 14-43. Resisting, interfering with officer.
- Sec. 14-44. Impoundment of animals.
- Sec. 14-45. Disposition of impounded animals.
- Sec. 14-46. Unauthorized removal from custody.
- Sec. 14-47. Disposal of dead animals.
- Sec. 14-48. Quarantine of animals.
- Sec. 14-49. Classification of dogs as dangerous.
- Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation; destruction.
- Sec. 14-51. Failure to surrender animal or carcass.
- Sec. 14-52. Rabies vaccination of dogs, cats, and ferrets; rabies vaccination certificates and animal license tags.
- Sec. 14-53. Cruel and inhumane treatment of animals prohibited.
- Sec. 14-55. Responsibility for animals.
- Sec. 14-56. Animal at large.
- Sec. 14-57. Creation of nuisance.
- Sec. 14-58. Causing injury, property damage.
- Sec. 14-59. Defecating, urinating on public or private property.
- Sec. 14-60. Public parks and beaches.
- Sec. 14-61. Service animals.
- Sec. 14-62. Transporting in open bed of vehicle.
- Sec. 14-63. Confinement of females in estrus (heat).
- Sec. 14-64. Feral animals and feral cat colonies.
- Sec. 14-65. Abandonment of animals.
- Sec. 14-66. Mandatory neutering of cats and dogs.
- Secs. 14-67—14-85. Reserved.

Sec. 14-36. Definitions.

For the purposes of this article, the following words, terms and phrases, shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender. The word "shall" is always mandatory and not merely supervisory.

Abandon means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

Animal shall have the meaning set forth in F.S. § 828.27, as may be amended from time to time.

Animal control authority means the entity tasked with animal control and animal services for the county. The animal control authority shall be designated by the board and authorized to enforce this article and the animal control laws of the state.

Animal control officer or *animal enforcement officer* shall have the meaning ascribed to “animal control officer” in F.S. § 828.27, as may be amended from time to time. The terms animal control officer and animal enforcement officer may be used interchangeably herein.

Applicable civil penalty means the civil penalty established by the board for violating a certain provision of this article.

At large means off the premises of the owner, whether on public or private property, and not under the physical control of any person by means of a leash, cord or chain of sufficient strength to control the animal, not to exceed six feet in length. A police dog or police horse, as defined in F.S. § 843.19, while in use by a law enforcement agency, shall not be deemed to be at large.

Baiting means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.

Board means the Board of County Commissioners of Brevard County, Florida.

Caregiver means any person who provides care, shelter, protection, refuge, or nourishment to any animal or undertakes the responsibility to do so, whether of their own volition or by request of the owner of that animal.

Citation means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of this article and that the county court will hear the charge. Pursuant to F.S. § 828.27, the citation shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.

- (5) The ordinance section violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court if a mandatory court appearance is required for the violation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

Council means the representatives designated to hear appeals of sufficient cause findings as set forth in section 14-49, below.

County means Brevard County, Florida.

Cruel treatment means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal.

Dangerous dog means any dog that, according to the records of the animal control authority:

- (1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property; or
- (3) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the animal control authority.

Domestic animal means any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea, or other domesticated beast or bird.

Farm animal means any animal that customarily is raised or bred on farms including grazing animals, such as cattle, horses, goats, or sheep, swine, other hoofed animals, bees, fowl or other animals commonly referred to as livestock.

Feral animal means an animal that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication and has no known owner. Stray animals may be feral or tame, but are considered feral where they are not known or are unwanted.

Harborer means any person or entity which provides care, shelter, protection, restraint, refuge, food or nourishment in such a manner as to control an animal's activities.

Inhumane treatment means acts which are physically cruel to an animal, or which expose an animal to unusual, unnecessary, and otherwise avoidable physical harm.

Kennel means any locked structure or enclosure in which an animal is humanely confined and secured.

License certificate means a county animal license certificate issued pursuant to this chapter.

License tag means a county animal license tag issued pursuant to this chapter.

Licensed veterinarian means any person who is licensed to engage in the practice of veterinary medicine in this state, under the authority of F.S. ch. 474.

Notice means written notice by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48 relating to service of process.

Nuisance means:

- (1) Disturbing the peace and quiet of any person by habitually or continually barking, howling, crying, screaming, or making other bothersome noises; or
- (2) Disturbing the peace of any person by habitually or repeatedly destroying, desecrating or soiling public or private property, chasing persons, livestock, cars or other vehicles, running at large, or other behavior that interferes with the reasonable use and enjoyment of the property.

Officer means any law enforcement officer defined in F.S. § 943.10 or any animal control officer or animal enforcement officer, as defined in this section.

Owner means any person, firm, corporation, partnership, association, trust, estate or any other legal entity, business unit or organization possessing, harboring, keeping or having control or custody of an animal temporarily or permanently, or, if the animal is owned by a person under the age of 18 years, that person's parent or legal guardian. This definition shall include any harborer or caregiver.

Police dog means any dog that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

Probable cause means reasonable grounds, based on personal knowledge of facts and circumstances or trustworthy information, sufficient to warrant a belief that a violation of this article has been or is being committed.

Secure enclosure means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, consisting of at least 11 guage chain link wire, and a secure floor, to prevent the dog from escaping over, under, or through the structure, and shall also provide protection from the elements.

Service animal means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

Severe injury means any physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery. *Sustenance* means food or feed appropriate to the species consuming it and providing the essential materials for good health, growth, reproduction and general life functions. It also includes clean, potable water in sufficient quantity and quality to sustain vital functions of the animal and to which the animal has constant access. Both food and water must be in containers designed and situated to allow the animal easy access to them.

Underground pet containment system means a device, which uses a buried wire along the perimeter of a premises that transmits a signal to a receiver attached to the collar of an animal, which gives the animal an electronic shock or other warning when the animal approaches the buried perimeter wire to prevent said animal from leaving the premises. This definition includes buried electrical fencing and invisible fencing.

Unprovoked means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

Zoonoses or zoonotic disease means those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

Sec. 14-39. Authority and purpose.

This article is hereby enacted pursuant to the provisions of F.S. §§ 125.01 and 828.27, and F.S. ch. 767, with the purpose of regulating the possession, ownership, keeping, care and custody of animals, in the interest of the health, safety and welfare of the people of the county.

Sec. 14-40. Jurisdiction.

This article shall be effective throughout the unincorporated areas of the county and within the incorporated areas of the county to the extent this article does not conflict with any applicable municipal ordinance.

Sec. 14-41. Administration.

- (a) The board shall designate an animal control authority to administer and enforce the provisions of this article.
- (b) The animal control authority may employ animal control officers to assist in the administration and enforcement of this article. Such animal control officers shall successfully complete a training program in accordance with F.S. § 828.27.
- (c) Animal control officers are not authorized to bear arms or make arrests.
- (d) The animal control authority shall investigate complaints of alleged violations of this article.
- (e) The animal control authority and its officers are hereby authorized to catch, seize or pick up:
 - (1) Any sick or injured animal, including any animal subject to cruelty, or in need of immediate medical attention.
 - (2) Any animal infected with, or suspected of carrying, rabies or any other infectious disease.
 - (3) Any dangerous dog not properly confined or restrained.

- (4) Any animal not properly quarantined.
- (5) Any animal at large.
- (6) Any animal causing injury, or threat of injury, to any person by being at large, endangering or chasing persons, or by causing property damage to a person other than the owner of the animal.
- (7) Any female dog or cat in estrus (heat) not properly confined.
- (f) The animal control authority shall impound any animal caught, seized or picked up pursuant to this article.
- (g) The animal control authority may engage the services of a licensed veterinarian to treat any sick or injured animal, including any animal subject to cruel or inhumane treatment, or any animal infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.
- (h) The animal control authority may declare a dog to be a dangerous dog, pursuant to the provisions of this article, and shall order the owner of such dog to confine or restrain such dog as required by this article. Officers shall routinely inspect the premises of the owner of such dog to determine compliance with any order of the animal control authority under this section, and all other provisions of this article.
- (i) The animal control authority shall conduct an ongoing public information campaign on the problems resulting from abandoning and neglecting animals, and the penalties under law for abandoning or neglecting animals.

Sec. 14-42. Enforcement and penalties.

- (a) Any officer who has probable cause to believe that any person has committed an act in violation of this article may issue a citation to such person.
- (b) Unless otherwise specified, any violation of this article constitutes a civil infraction and may be punishable by a maximum civil penalty not to exceed \$500.
- (c) Within 30 days of the issuance of a citation for a violation of this article, the person cited must comply with one of the following options for disposition of the citation:

- (1) Pay the applicable civil penalty together with the court filing fee and animal control officer training surcharge to the clerk of the county court within 30 days in the manner provided on the citation form. A person making this election shall be deemed to have admitted the infraction and waived the right to a hearing; or
 - (2) Request a hearing to contest the citation in county court, as provided by F.S. § 828.27, through the clerk of the county court, in the manner provided on the citation form.
 - i. The clerk shall schedule a hearing in the county court and cause the person contesting the citation, the citing officer, and any witnesses to be notified of the court hearing by summons.
 - ii. The standard of proof in the court hearing shall be a preponderance of the evidence.
 - iii. Contesting the citation shall be deemed a waiver of any right to pay the applicable civil penalty, and upon a finding by the court that the civil infraction was committed, the court may order the violator to correct the violation and impose a penalty up to the maximum civil penalty of \$500 plus all costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty. The judge may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the judge determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or correct the violation within the time provided, a civil judgment shall be entered against that person in the amount adjudicated, and any other lawful sanctions may be imposed by the court.
 - (3) If the person is required to appear in court by this article, as indicated on the citation, he or she does not have the option of paying a civil penalty in lieu of appearing in court.
- (d) Pursuant to F.S. § 828.27(2)(f), if the person cited fails to pay the applicable civil penalty within 30 days, fails to appear in court to contest the citation, or fails to appear in court as required by this article and indicated on the citation, the court may issue an order to show cause upon the request of the animal control authority. This order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in

response to the court's directive, that person may be held in contempt of court and a civil judgment shall be entered against the person in an amount not to exceed the maximum civil penalty of \$500 plus all applicable costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty.

- (e) Payment of any civil penalty imposed by the county court shall be made to the clerk of court, who shall forward the monies collected to the county.
- (f) Civil penalties imposed pursuant to this article shall be independent of and in addition to any fees, cost, or charges arising from the impoundment or registration of animals as provided in this chapter.
- (g) As provided by F.S. § 828.27(4)(b), there shall be imposed and collected a surcharge of \$5 upon each civil penalty imposed for violation of this article. The proceeds from such surcharges shall be used to pay the costs of training for animal control officers.
- (h) Nothing in this article shall prevent officers from charging violations relating to animal control or cruelty as criminal offenses, when so provided by state law.
- (i) In addition to the penalties otherwise provided in this article, the board, or the animal control authority as its designee, shall have the right to enforce by injunction, or any other appropriate legal means, compliance with the regulations and requirements of this article.

Sec. 14-43. Resisting, interfering with officer.

It is a violation of this article for any person to resist, obstruct, hinder or interfere with an officer in the administration or enforcement of this article. Pursuant to F.S. § 828.27(5), any person who willfully refuses to sign and accept a citation issued by an officer may be charged with a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

Sec. 14-44. Impoundment of animals.

- (a) The animal control authority may operate and maintain county shelters, or contract for other shelter facilities, to impound any animal authorized to be caught, seized or picked up by the animal control authority.
- (b) It is a violation of this article for any person to remove, or attempt to remove, any impounded animal from a county shelter or other shelter facility contrary to the provisions of this section.

- (c) Any animal found to be cruelly or inhumanely treated, in obvious distress, or infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article, may be seen by a veterinarian without the owner's consent for examination and treatment, if necessary. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.
- (d) By resolution, the board shall establish fees to be charged for impounding, boarding, care and feeding animals pursuant to this article.
- (e) No animal impounded pursuant to this article shall be released until:
 - (1) The owner of an impounded animal, or which does not have a valid rabies license tag, arranges for rabies vaccination and obtains an animal license tag for the animal;
 - (2) The owner of an impounded animal pays the fees for impoundment, board and feed, and any additional fees for rabies vaccination, veterinary expenses, any and all current or outstanding citation fines and/or an animal license tag; and
 - (3) The owner of an impounded animal provides proof of ownership or custody, such as a rabies vaccination certificate, sales receipt, affidavits of neighbors, photographs or other documentary evidence.
 - (4) If the animal is a dangerous dog, in addition to the foregoing requirements, the owner of such animal complies with all provisions of this article applicable to such dangerous dog.
 - (5) If the animal is, or will be, subject of a petition seeking relief pursuant to F.S. § 828.073, the court of competent jurisdiction issues an order that the owner is able to adequately care for, and have custody of, the animal, directing the sale or destruction of the animal, or remanding custody of the animal to the animal control authority or other person or agency.
 - (6) Lawful exercise of discretion by the animal control authority to destroy an animal or the failure of an owner to redeem an animal shall not relieve the owner of liability for violations, fines and accrued charges and fees, regardless of the ultimate disposition of the animal.

Sec. 14-45. Disposition of impounded animals.

- (a) The animal control authority shall attempt to identify and locate the owner of an animal impounded pursuant to this article. If the owner is identified and located, the animal control authority shall provide notice to the owner that the animal has been impounded and may be redeemed within five (5) business days of such notice. The five-business-day period for redemption shall not include the first day of impoundment. In the event that the last day of impoundment falls on a day that the animal shelter is not open for business, the animal shall be held until the end of the following day that the animal shelter is open for business. Fees shall be assessed beginning on the first day of impoundment. For purposes of calculating fees, each day in which the animal spent any time in impoundment is counted as a full day.
- (b) An animal impounded pursuant to this article shall become the property of the animal control authority when:
 - (1) The owner of such animal is not identified or located within five day after impoundment.
 - (2) The owner of such animal is notified, but does not redeem the animal within the five-day redemption period.
 - (3) If the animal is wild or feral, impoundment creates unusual risks to such animal or any person.
 - (4) A licensed veterinarian determines that the medical condition of the animal warrants humane destruction.
- (c) When an animal becomes the property of the county, the animal control authority may, without further notice to the former owner:
 - (1) Transfer ownership of such animal to a humane society, humane agency, law enforcement agency, zoo or other person, institution or agency, provided that such person, institution or agency agrees to record the name and address of the new owner upon subsequent transfer of ownership of the animal; or
 - (2) Destroy such animal in a humane manner.
- (d) Any livestock, as defined in F.S. § 588.13, impounded pursuant to this article shall be disposed of as provided by F.S. ch. 588.

Sec. 14-46. Unauthorized removal from custody.

It is a violation of this article for any person to remove, or attempt to remove, an animal from the custody of the animal control authority.

Sec. 14-47. Disposal of dead animals.

- (a) By resolution, the board shall establish fees to be charged by the animal control authority to dispose of domestic dead animals from private property.
- (b) The owner of any real property may bury or dispose of any dead animal on such property after notice to the animal control authority, unless otherwise prohibited by law.

Sec. 14-48. Quarantine of animals.

- (a) The provisions of F.A.C. ch. 64D-3, as may be amended or renumbered from time to time, which relate to diseased animals, the quarantine of animals, and zoonosis control and prevention, are hereby adopted by reference in this article. A copy of F.A.C. ch. 64D-3 has been attached to the ordinance enacting this article, and is available for inspection in the office of the clerk to the board of county commissioners.
- (b) It is a violation of this article for any person to commit an act, or cause an act to be committed, which is in violation of any provision of F.A.C. ch. 64D-3 which relates to diseased animals, the quarantine of animals, and zoonosis control and prevention.
- (c) Suspected rabid animals, including animals involved in human exposure (bite and non-bite) and animals exposed to rabid or suspected rabid animals, shall be isolated and quarantined or humanely euthanized in accordance with F.A.C. 64D-3.040(3), as may be amended or renumbered from time to time. If quarantine of an animal cannot be maintained at the owner's home, or at another location permitted under F.A.C. 64D-3.040(3), the animal shall be quarantined at a county animal shelter or at a licensed veterinary clinic having recognized isolation procedures, at the owner's expense. It is a violation of this article for the owner of any animal to refuse or fail to maintain the animal under rabies quarantine, as required by F.A.C. 64D-3.040(3) and section 14-41 of this article.
- (d) By resolution, the board shall establish fees to be charged for quarantine of animals pursuant to this article.
- (e) Police dogs and service dogs that have current rabies vaccination administered by a licensed veterinarian are exempt from confinement under this section as provided in F.S. § 767.16.

Sec. 14-49. Classification of dogs as dangerous.

- (a) The animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any officer, desiring to have a dog classified as dangerous. If the animal is quarantined or impounded pursuant to section 14-50 of this article, the animal shall remain impounded and be disposed of in accordance with that section. Any animal that is the subject of a dangerous dog investigation, that is not impounded with the animal control authority shall be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. The owner shall provide the address where the dog shall be so confined, and the manner of confinement, to the animal control authority. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification. In the event that a dog is to be destroyed, these same provisions shall apply and the dog shall not be relocated or ownership transferred.
- (b) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (c) 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 shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control authority shall provide written notification of the sufficient cause finding, 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 hearing at the address indicated on the sufficient cause finding within 7 calendar days from the date of receipt of the notification of sufficient cause finding and, if requested, 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 from the owner. Such hearing shall be conducted according to the procedures set forth in subsection (f) below. If the owner fails to request a hearing within 7 calendar days from the date of receipt of the notification of sufficient cause finding, no further hearing or appeal procedure shall be available to the owner, and the animal shall be classified as a dangerous dog. The animal

control authority shall provide written notification to the owner by registered mail, certified hand delivery or service.

- (d) The board shall appoint an animal control council to conduct dangerous dog classification hearings. The council members shall be one veterinarian and one alternate veterinarian, one dog behavioral trainer and one alternate dog behavioral trainer, and one kennel worker and one alternate kennel worker. Council members shall serve one year or until a replacement is duly appointed. The animal services and enforcement council shall adopt rules of procedure to govern such hearings, as necessary. A copy of the rules of procedure shall be made available to any person who requests a hearing. The council is not an advisory board subject to the uniform advisory board ordinance, and public comment shall not be required at each council meeting. The council shall hear all relevant evidence from the animal owner, the animal control authority, and any witness with information relevant to the dangerous dog classification, including any victim, if applicable. Within 7 calendar days of the hearing described above, the council shall determine if a dog is to be classified as a dangerous dog. The animal control authority shall provide notice of the council's determination to the owner by registered mail, certified hand delivery or service. If classified as dangerous, the notice shall include the basis for declaring the dog dangerous, a description of the dog, and describe the responsibility of the owner for maintenance of the dog under this article.
- (e) If the owner appealed the sufficient cause finding to the council pursuant to the provisions of subsection (c) above, and the council determined the dog to be a dangerous dog, the owner may file a written request for a hearing in the county court in and for Brevard County, Florida to appeal the classification within 10 business days after receipt of the council's written determination. The owner or the county must continue to confine the dog in a securely fenced or enclosed area pending a resolution of the appeal.
- (f) Within 14 days after a dog has been classified as dangerous by the animal control authority or the animal control council, or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority, and the certificate shall be renewed annually. The animal control authority is authorized to issue such certificates of registration, and the renewals thereof, only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:
 - (1) A current certificate of rabies vaccination and animal license tag for the dog.

- (2) A locked, secure enclosure to confine the dangerous dog, and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
- (3) Permanent identification of the dangerous dog, such as a tattoo or an electronic implantation, as specified by the animal control authority, within 24 hours of release.
- (4) Payment of the applicable annual fee for the issuance of certificate of registration required by this section. The annual fee shall be established by resolution of the board.
- (5) Payment of any boarding costs, impound fees, any and all current or outstanding civil citations, and any other fines or fees associated with, related to, or arising from the incident, investigation, and any hearing or appeal procedure under this section.
- (6) Proof that the owner has procured liability insurance in the amount of at least \$100,000.00 covering any damage or injury which may be caused by the dangerous dog during the 12-month period for which licensing is sought. The owner shall name the animal control authority as a certificate holder and notify the animal control authority of any cancellation, modification, expiration or termination of the liability policy required by this section.
- (7) The owner shall obtain a dangerous dog tag from the animal control authority which shall be worn by the dog at all times. The purpose of the tag shall be to provide immediate identification to the animal control authority and the public that the dog has been declared dangerous.
- (8) The owner shall have the dangerous dog sterilized and shall present appropriate evidence of said sterilization by the veterinarian who performed the operation within 60 days of the effective date of the dangerous dog declaration.
- (9) Within 90 days, the owner shall attend a dangerous dog owner orientation course conducted by the animal control authority.
- (10) Five years after the date that the dog was declared dangerous, the owner may request a reduction of the annual dangerous dog certification fee, as provided by resolution. Any such request shall be granted in the event that there have been no violations of this article since the dog was declared dangerous.

- (g) The owner shall immediately notify the animal control authority when a dog that has been declared as dangerous is:
- (1) Loose, at large or unconfined.
 - (2) Has bitten a human being or attacked another animal.
 - (3) Is sold, given away, stolen or dies.
 - (4) Is moved to an address other than that stated in the certificate of registration.

Prior to a dangerous dog being 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 article. The animal control authority must be notified by the owner of a dog classified as dangerous when that dog is moved into the county. When the animal control authority receives notice that a dog classified as dangerous is to be moved out of the county, the animal control authority shall provide courtesy notice to the animal control authority of the receiving jurisdiction.

- (h) It is a violation of this article for the owner of a dangerous dog to permit, whether intentionally or negligently, the dog to be outside of the locked, secure enclosure described in subsection (f)(2) hereof, unless the dog is muzzled and restrained by a substantial, non-retractable 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 any 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 owner's immediate household are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.
- (i) This section does not apply to dogs used by law enforcement officials for law enforcement work.
- (j) The owner of a dangerous dog shall permit unannounced inspections by animal services and enforcement to determine the owner's compliance with this section.
- (k) Hunting dogs are exempt from the provisions of 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 the

provisions of this act when engaged in any legal procedures. However, such dogs at all other times and respects shall be subject to this section. Dogs that have been classified as dangerous shall not be used for hunting purposes.

- (l) Any person who fails to comply with any provision of this section commits a violation of this article. In addition to the applicable civil penalty, if a violation results in an immediate and direct risk of harm to the general public, the animal control authority shall impound the dangerous dog to dispose of such in a humane manner, after written notice to the owner. If the owner of a dog impounded under this subsection believes that there has not been such a violation, the owner may file a petition for injunctive relief in the circuit court of the eighteenth judicial circuit in and for the county, that the impounded dog not be destroyed. The petition must be filed within the ten business days of the owner's receipt of notice of impoundment of the dog, and notice of the petition must be timely served upon the animal control authority. If the circuit court finds that there has been no violation of this section, such dog shall be released to the custody of the owner. In the event that the circuit court denies the petition for injunction, the owner shall be responsible for all impoundment fees and maintenance costs incurred for such dog.

Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation; destruction.

- (a) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, pursuant to F.S. § 767.13, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure.
- (b) If a dog that has not been previously declared dangerous under this article attacks and causes severe injury to, or death of, any human, the dog shall be immediately confiscated by county animal services and enforcement, placed in quarantine, if necessary, for the proper length of time or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the

owner to request a hearing under section 14-49. 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 any appeal procedure. In addition, pursuant to F.S. § 767.13, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

- (c) If a dog that has been previously declared dangerous under this article attacks and causes severe injury to or death of any human, pursuant to F.S. § 767.13, the owner of the dangerous dog is guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084. In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure.
- (d) If the owner files a written appeal under section 14-49 or this section, the dog must be impounded and held and may not be destroyed while the appeal is pending.
- (e) Pursuant to F.S. § 767.13, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime or noncriminal violation specified under this section.
- (f) In the event it is determined that humane destruction of a dog is justified pursuant to this section, the owner is guilty of a noncriminal violation of this article and subject to a civil penalty, in addition to any criminal charges.

Sec. 14-51. Failure to surrender animal or carcass.

It is a violation of this article for any person to fail to surrender an animal for rabies quarantine, impoundment or destruction, or produce the carcass of a dead animal, upon lawful demand by the animal control authority or any officer. A citation issued pursuant to this section shall be set for a mandatory hearing in county court no later than five days from the issuance of the citation. In addition to the civil penalty provided in this article, the county court shall order the person to comply with the lawful demand for surrender or production by injunction, or any other appropriate legal means.

Sec. 14-52. Rabies vaccination of dogs, cats, and ferrets; rabies vaccination certificates and animal license tags.

- (a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species. The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.
- (b) Each ferret vaccinated according to this section must be quarantined, when necessary, according to rules of the Department of Health.
- (c) A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that at the time vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits.
- (d) The owner of a dog, cat, or ferret in the county that is vaccinated against rabies shall obtain a rabies vaccination certificate. Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. The animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the animal control authority that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies vaccine to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature. An identification number shall be printed on the rabies vaccination certificate and shall correspond to the same number on the animal license tag, if required.
- (e) The owner of a dog or cat shall obtain an animal license tag within 28 days of establishing residency in the county, which tag shall be renewed annually. The animal control authority shall approve the form, content and design of the animal license tag. No other animal license tag shall be valid in the county. Animal license tags shall be issued by the animal control authority, or any licensed veterinarian who administers a rabies vaccination and has been authorized by the county to collect the fee for

such animal license tag. An animal license tag shall be valid for a period of one year from the date of issuance. All veterinarians in the county shall display, in a conspicuous place that can be seen and easily read by all customers, a sign indicating that county license tags are required and indicating where they can be purchased.

- (f) The license tag shall be attached to the collar or harness of the dog or cat and shall be worn at all times, except when such animal is confined for treatment in a veterinary hospital or clinic operated by a licensed veterinarian, or while competing in an organized animal show, trial, or training therefor, or by a police dog while being used by law enforcement officials for law enforcement work.
- (g) By resolution, the board shall establish and may change fees to be charged for issuance of rabies vaccination certificates and animal license tags. Any resident of the county who owns or keeps a service animal, and which is being used to assist a disabled person, as defined under the Americans With Disabilities Act, may obtain an animal license tag, when applicable, at no charge.
- (h) If an animal license tag is lost or destroyed, the animal owner shall obtain a replacement animal license tag. A replacement animal license tag may be issued to the owner upon presentation of the corresponding rabies vaccination certificate and payment of the applicable fee.
- (i) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to have the animal vaccinated against rabies as required by this section.
- (j) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to obtain or renew a rabies vaccination certificate or animal license tag when required by this section.
- (k) The owner commits a violation of this article if the owner's dog or cat is without a physically attached animal license tag as required by this section.
- (l) The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has expired.
- (m) A rabies vaccination certificate or animal license tag issued for one ferret, dog or cat is not valid for any other animal. The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has not been issued for such animal, or if the owner presents a rabies vaccination certificate issued for another animal for the purpose of

obtaining an animal license tag or demonstrating compliance with this section.

- (n) Pursuant to F.S. § 828.30, an animal owner's name, street address, phone number, and animal license tag number contained in a rabies vaccination certificate provided to the animal control authority is exempt from F.S. § 119.07(1) and section 24(a), Art. I of the State Constitution. However, any person who has been bitten, scratched, or otherwise exposed to a zoonotic disease or the physician of such person; a veterinarian who is treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or the owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease shall be provided with any information contained in a rabies vaccination certificate but only with respect to the particular animal biting, scratching, or otherwise causing exposure. Any person with an animal tag license number may receive vaccination certificate information with regard to that animal. Law enforcement and prosecutorial agencies; other animal control authorities; emergency and medical response and disease control agencies; or other governmental health agencies shall be provided information contained in the rabies vaccination certificate for the purpose of controlling the transmission of rabies; however, the receiving agencies and authorities must not release the exempt information.

Sec. 14-53. Cruel and inhumane treatment of animals prohibited.

It is a violation of this article for any person to commit cruel or inhumane treatment to any animal. The civil penalty provided for a violation of this section is in addition to, and separate apart from, any criminal penalty for a violation of F.S. §§ 828.12 or 828.13. The term "cruel treatment" means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal. The term "inhumane treatment" means acts which are physically cruel or expose an animal to unusual, unnecessary and otherwise avoidable physical harm. The following acts shall be deemed cruel or inhumane treatment to animals; however, this list shall not be construed as excluding other acts which may amount to cruel or inhumane treatment:

- (a) Unnecessarily overloading, overdriving, tormenting, or unnecessarily beating, mutilating or killing any animal, or causing the same to be done, or carrying in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner;
- (b) Intentionally committing an act to any animal, or the person who owns or has custody or control of any animal failing to act, which act or omission results in the animal's cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causing the same to be done;
- (c) Tripping, felling, roping, or lassoing the legs of a horse by any means for the purpose of entertainment or sport, where "trip" means any act that

consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof, except that this subsection shall not apply when tripping is used to:

- (1) control a horse that is posing an immediate threat to other livestock or human beings;
 - (2) for the purposes of identifying ownership of the horse when its ownership is unknown; or
 - (3) for the purpose of administering veterinary care to the horse;
- (d) Impounding or confining any animal in any place and failing to supply that animal, during such confinement, with a sufficient quantity of good and wholesome food and water;
 - (e) Keeping any animal in any enclosure without wholesome exercise, rest, sanitary conditions and change of air;
 - (f) Abandoning to die any animal that is maimed, sick, infirm, or diseased;
 - (g) Abandonment by the owner or possessor, or person who has charge or custody, of any animal to suffer injury or malnutrition;
 - (h) Abandonment by the owner or possessor, or person who has charge or custody, of any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal
 - (i) Failing to either provide reasonable veterinary care to any maimed, sick, infirm, or diseased animal, or have such animal expeditiously and humanely euthanized, which failure results in the cruel death, or excessive or repeated exposure to unnecessary pain and suffering;
 - (j) Using any animal for baiting or fighting, including, but not limited to, dog fighting, cock fighting, or training any animal for fighting;
 - (k) Intentionally poisoning any animal, or putting out or placing poison at any point or place outside where any animal may access the poison; or
 - (l) Leaving any animal unattended in a parked vehicle with inadequate or no ventilation;
 - (m) Failing to provide adequate shade or protection from the elements; or
 - (n) In the case of a stunt or entertainment act:
 - (1) failing to make allowance for an animal's reasonable limits of endurance;

- (2) failing to determine whether equipment operated in conjunction with the working animal is in safe operating condition;
- (3) an animal is killed or injured during the stunt or act; or
- (4) any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof, including a horse, mule or donkey, is allowed to fall or drop into water from a platform or structure more than ten feet above the water.

Sec. 14-55. Responsibility for animals.

- (a) The owner of any animal shall exercise reasonable care to protect humans, other animals or property from injury or damage caused by the behavior of such animal.
- (b) The owner of an animal shall exercise reasonable care to prevent such animal, while unattended, from leaving the premises of such owner by:
 - (1) Confinement in a securely enclosed, fence, pen or structure from which the animal cannot dig, climb, jump or escape and which is locked when the animal remains unattended;
 - (2) Restraint by chain, cable and trolley, or other tether of sufficient strength to prevent escape; or
 - (3) Leash and physical control of a person capable of preventing such animal from escaping.
- (c) The use of an underground pet containment system as the sole means of restraining an animal shall not constitute reasonable care as specified in this section.
- (d) The owner of an animal shall exercise reasonable care to maintain such animal off the premises of such owner by:
 - (1) Confinement in a vehicle from which the animal cannot climb, jump or escape; or
 - (2) Leash and physical control of a person capable of preventing such animal from escaping.
- (e) It is a violation of this article for an owner or caregiver not to exercise reasonable care in restraining animals as specified in this section.

Sec. 14-56. Animal at large.

No animal shall be permitted or allowed to be at large. It is a violation of this article for the owner of an animal to permit or allow the animal to be at large, whether willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55.

Sec. 14-57. Creation of nuisance.

- (a) No animal shall be permitted or allowed to create a nuisance. It is a violation of this article for the owner of an animal to permit or allow the animal to create a nuisance.
- (b) For the purposes of this section, noise from farm animals, including exotic birds, shall not constitute a nuisance within an AU zoning classification; provided, however, that the following setback requirement shall apply only to exotic birds kept on AU property which abuts non-AU property of a residential character: A minimum set back of 100 feet between the noise source and the abutting non-AU residential property.
- (c) Any nuisance complaint may be investigated by the animal control authority. However, before a citation may be issued, the officer must have personal knowledge of the nuisance or at least two affidavits from different parties residing in close proximity to the alleged nuisance must be received. One affidavit may be sufficient to warrant investigation where there is only one party in close proximity to the alleged nuisance.
- (d) It shall be an unlawful nuisance for an animal owner to either be found guilty of or effectively admit guilt to more than four violations of this article within a 12-month period of time. The failure to contest or pay a citation shall be considered an effective admission of guilt for the purposes of this section. A violation of this section is a civil infraction punishable by a fine not to exceed \$500.00.

Sec. 14-58. Causing injury, property damage.

No animal shall cause injury, minor or severe, or threat of injury, to any person, or domestic animal, or cause any property damage to a person other than the owner. It is a violation of this article for the owner of an animal to permit or allow, whether willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55, the animal to violate this section.

Sec. 14-59. Defecating, urinating on public or private property.

No animal shall be permitted or allowed to defecate or urinate upon any public property, or any private property, without permission of the property owner. It shall be the responsibility of the owner or person in control of the animal to dispose of or remove

any excretions caused by the animal. It is a violation of this article for the owner of an animal to permit or allow the animal to defecate or urinate upon any public property, or any private property, without permission of the property owner.

Sec. 14-60. Public parks and beaches.

- (a) No animal shall be permitted or allowed into or on any public park or beach; provided, however, that an area in a public parks or beach may be designated for animals by resolution of the board, or by the governing body of any applicable municipality. In that event, the area provided for animals must be properly identified and posted by the county or the appropriate municipality.
- (b) It is a violation of this article for the owner of an animal to permit or allow the animal into, or on, any public park or beach not designated for animals and not properly identified and posted. However, a disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied into or on any public park or beach by a service animal without violating this section.

Sec. 14-61. Service animals.

Every disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied by a service animal.

Sec. 14-62. Transporting in open bed of vehicle.

Any animal being transported in the open bed of a pickup truck or other similar vehicle from which the animal can easily escape shall be confined inside a locked animal carrier or restrained by a minimum of two tethers, with one tether each being affixed to the opposite side of the vehicle, and both tethers being attached to the collar or harness of such animal. It is a violation of this article for the owner of an animal, as well as the driver of the pickup truck or other similar vehicle being used to transport an animal, to refuse or fail to confine or restrain the animal being transported as required by this section.

Sec. 14-63. Confinement of females in estrus (heat).

Any female dog or cat in estrus (heat) shall be confined so as to prevent such dog or cat from coming in contact with another dog or cat, except for intentional breeding purposes. It is a violation of this article for the owner of a female dog or cat in estrus to refuse or fail to confine the dog or cat as required by this section.

Sec. 14-64. Feral animals and feral cat colonies.

- (a) The county may establish a fund or provide services to offset costs of trapping, neutering and vaccinating captured feral cats that can be returned to an appropriate, controlled, and registered colony site. Caregivers for such colonies, whether one or several animals, will be aided by the county in properly managing and caring for those colonies, to the extent that funding is available.
- (b) Each feral cat colony will be registered by the caregivers with an agency designated by the county, which will serve as a clearinghouse for information on current caregivers, education for new caregivers, and assistance for persons found in violation of subsections(c)(1) through (4) below.
- (c) Any feral cat picked up by the animal control authority which has an appropriate ear tipping or other distinguishing mark indicating it belongs to a registered feral cat colony will be returned to that colony unless veterinary care is required or the criteria listed in subsection 14-64(d) applies. The designated agency will be notified in such instances.
- (d) Any person or caregiver determined to be in violation of subsections (1) through (4) below, shall be issued a written warning and be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance. That period of time shall not exceed 90 days from issuance of the initial warning notice. Failure to comply shall result in a violation of this article, which may result in the issuance of a citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:
 - (1) Register the feral cat colony with the agency designated in subsection (b).
 - (2) Assure responsibility and arrangements for feeding the cat or cat colony regularly throughout the year, including weekends, holidays and vacations of the feral cat caregiver.
 - (3) Sterilize (neuter) all adult cats that can be captured.
 - (4) Vaccinate, as required by law, all cats that can be captured:
 - a. Against rabies, preferably with a three-year vaccine,
 - b. And any other infectious disease as mandated by law.
 - (5) Make every attempt to sterilize all kittens over eight weeks of age and before 16 weeks of age.

- (6) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.
 - (7) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or humane euthanasia.
 - (8) Ear crop all cats with a single cut preferably on the left ear, at least one inch from the outside tip of the auricle. Providing either a tattoo on the inside of the right ear or an electronic implant will aid in animal identification.
 - (9) Maintain proof of sterilization, vaccination, tattoo or implant and medical records for all cats. These records must be provided to animal services and enforcement upon request.
- (e) The animal control authority has the right to immediately seize and remove all, or parts, of any colony for the following reasons:
- (1) Public health and public safety concerns including rabies, other epizootic and certain zoonoses identified by the county public health unit; or
 - (2) Animals creating a public nuisance as defined in section 14-36. The designated agency will be notified within 24 hours of removal of any feral cats.
- (f) In the event the feral cat caregiver fails to comply with this section, the designated agency will be notified at least a day before removal of any animal. The designated agency will attempt to resolve the situation prior to removal by the animal control authority.

Sec. 14-65. Abandonment of animals.

Pursuant to F.S. § 828.13, any person who is the owner, possessor, or caregiver, or has charge or custody of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in or on a street, road or public place without providing for the care, sustenance, protection and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 770.82, or a fine of not more than \$5,000.00 or by both imprisonment and a fine.

Sec. 14-66. Mandatory neutering of cats and dogs.

- (a) All cats and dogs offered for adoption by any public or private animal shelters in the county must be sterilized (spayed or neutered), by either:

- (1) Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
 - (2) Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. The shelter or animal control authority shall require a sufficient deposit from the adopter or purchaser, which deposit shall be refundable upon presentation to the shelter or animal control authority of written evidence by the veterinarian performing the sterilization that the animal has been sterilized. The deposit or donation may be based upon recommended guidelines established by the Florida Federation of Humane Societies, and in the case of county owned shelters, shall be established by resolution of the board. Failure to comply with the provisions of this subsection shall be a noncriminal violation, punishable by civil penalty and forfeiture of the deposit or donation to the shelter or animal control authority. Any legal fees or court costs used for the enforcement of this subsection are the responsibility of the adopter. Upon the request of a licensed veterinarian, and for a valid reason, the shelter or animal control authority shall extend the time limit within which the animal must be sterilized.
- (b) It is a violation of this article for any person to fail to comply with the provisions of this section.

Secs. 14-67—14-85. Reserved.

Civil Penalties for Civil Infractions
Includes Applicable Civil Penalty + \$10.00 Court Cost + \$5.00 Officer Training
Surcharge

Code Section	Description of Violation	Offenses			
		1st	2nd	3rd	4th
14-43	Resisting, interfering with officer	\$300.00	\$400.00	\$500.00	\$500.00
14-44(b)	Unlawful or unauthorized removal of animal from shelter	\$65.00	\$115.00	\$215.00	\$415.00
14-46	Removal of animal from custody of animal control authority	\$65.00	\$115.00	\$215.00	\$415.00
14-48	Violation of quarantine (ch. 64D-3, Florida Administrative Code) (\$215.00	\$315.00	\$415.00	\$500.00
14-49	Violation of dangerous dog restrictions	\$500.00	\$500.00	\$500.00	\$500.00
14-50(f)	Attack, bite or injury by dangerous dog; attack causing severe injury	\$500.00	\$500.00	\$500.00	\$500.00
14-51	Failure to surrender animal or carcass	\$300.00	\$300.00	\$300.00	\$300.00
14-52(i)	Failure to vaccinate dog, cat, or ferret	\$120.00	\$215.00	\$315.00	\$415.00
14-52(j)	Failure to obtain rabies certificate or	\$120.00	\$215.00	\$315.00	\$415.00

	animal license tag				
14-52(k) or (l)	Dog or cat without attached animal license tag or with expired tag	\$40.00	\$65.00	\$65.00	\$65.00
14-52(m)	Animal license tag or rabies certification used for animal other than that for which it was issued	\$100.00	\$200.00	\$300.00	\$400.00
14-53	Cruel or inhumane treatment	\$200.00	\$300.00	\$400.00	\$500.00
14-55	Failure to properly secure animal	\$55.00	\$165.00	\$265.00	\$415.00
14-56	Animal at large	\$55.00	\$165.00	\$265.00.00	\$415.00
14-57	Creation of a nuisance	\$100.00	\$200.00	\$300.00	\$400.00
14-58	Animal causing property damage	\$100.00	\$200.00	\$300.00	\$400.00
14-58	Attack causing injury	\$220.00	\$315.00	\$415.00	\$465.00
14-59	Animal defecating/urinating on property	\$50.00	\$65.00	\$65.00	\$65.00
14-60(b)	Animal on public park or beach	\$55.00	\$65.00	\$65.00	\$65.00
14-62	Failure to confine or restrain animal in pickup truck	\$100.00	\$200.00	\$300.00	\$400.00
14-63	Failure to confine female dog or cat in heat	\$200.00	\$300.00	\$400.00	\$500.00
14-66	Failure to comply with mandatory neutering	\$75.00	\$125.00	\$250.00	\$500.00



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

September 23, 2014

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Mr. John Lynch, Clerk to the Board

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2014-27, which was filed in this office on September 23, 2014.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

**INTERLOCAL AGREEMENT
BETWEEN
THE BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA,
a political subdivision of the State of Florida**

AND

**WAYNE IVEY, SHERIFF OF BREVARD COUNTY,
FLORIDA**

THIS INTERLOCAL AGREEMENT (this "Agreement") is made and entered into by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida 32940 (hereinafter the "County"), and Wayne Ivey, in his capacity as Sheriff of Brevard County, Florida, a county constitutional officer and a county charter officer, 700 Park Avenue, Titusville, Florida 32780 (hereinafter the "Sheriff").

WITNESSETH:

WHEREAS, it is the purpose and intent of this Agreement for the County and the Sheriff to provide for a means which each governmental entity may exercise cooperatively its respective powers and privileges in order to further a common goal; and

WHEREAS, this Agreement is an Interlocal Agreement entered into pursuant to Section 163.01, Florida Statutes, and the Florida Intergovernmental Cooperation Act of 1969, as amended. Prior to the effectiveness of any provisions of this Agreement and any amendments hereto, this Agreement including any amendments shall be filed as provided by Section 163.01, Florida Statutes; and

WHEREAS, Chapter 828, Florida Statutes, authorizes any law enforcement officer or any agent of any county to prosecute violators of Chapter 828, Florida Statutes and, Chapter 14, Brevard County Code of Ordinances, authorizes any law enforcement officer, as defined in Section 943.10, Florida Statutes, and any animal control officer to enforce Chapter 14, Brevard County Code of Ordinances; and

WHEREAS, the provision of animal control, sheltering, enforcement and licensing services protects public health and safety and promotes animal welfare; and

WHEREAS, the County and the Sheriff desire to transfer the entirety of the management, staffing, and supervision of what has heretofore been the function of the Brevard County Animal Services and Enforcement Department (hereinafter "BASE") to the Sheriff whereupon, during the term of this Agreement, the Sheriff shall be the animal control authority. This transfer will include all the enforcement activities and shelter activities currently conducted by BASE.

NOW, THEREFORE, in consideration of the premises and mutual promises contained herein, the receipt and sufficiency of which are hereby acknowledged the parties hereto agree as follows:

1. **Recitals**: The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part hereof.

2. **Effective Date**: The effective date of this Agreement shall begin on the 1st day of October 2014.

3. **Services**: The Sheriff shall provide all animal services within the jurisdictional area comprising Brevard County, including the unincorporated and incorporated areas in accordance with Chapter 14, Brevard County Code of Ordinances, on a twenty-four (24) hour basis. These services shall include, but not be limited to, all animal control, licensing and animal care facility services as outlined in **Attachment "A."**

4. **Funding**: The Sheriff shall include the reasonable cost for providing the animal services described in this agreement in the Sheriff's annual budget request. The parties agree that all revenue from all tag fees and fines realized by the animal services provided by the Sheriff shall benefit the County and be deposited into the appropriate accounts maintained by the County. The Sheriff shall make all reasonable attempts to collect all outstanding fines and fees.

5. **Equipment**: The County shall transfer all office equipment, computer equipment, vehicles and additional equipment currently used by BASE to the Sheriff. The Sheriff shall assume all responsibility for maintenance and liability of transferred equipment accepted by the Sheriff and shall be responsible for funding, replacing and insuring all equipment and vehicles necessary to efficiently manage the operations which were previously the function of BASE.

The Sheriff shall also be responsible for all vehicle maintenance and fuel costs for all transferred vehicles; provided, however, that the Sheriff shall determine when a vehicle or any other equipment should be removed from service whereupon the Sheriff shall thereafter retain no responsibility for the maintenance of such equipment.

6. **Shelters**: The Sheriff shall assume maintenance and management of the current two (2) County animal shelters. Unless the animal shelter services provided in this Agreement are relocated by the Sheriff in the future, the Sheriff shall maintain the North Animal Care Center (NACC) currently located at 2605 Flake Road, Titusville, Florida 32796, and the South Animal Care Center (SACC) currently located at 5100 W. Eau Gallie Boulevard, Melbourne, Florida 32934. Thus, if in the future, the Sheriff should relocate any existing animal shelter, the Sheriff shall thereafter have no further obligation to maintain any prior animal shelter. Locations of shelter services may be relocated by the Sheriff in the Sheriff's sole discretion.

The Sheriff shall continue to occupy the administrative offices located at 2725 Judge Fran Jamison Way, Viera, Florida 32940, Building A, until such time as the County provides acceptable alternative space at a different location as approved by the Sheriff.

The Sheriff shall coordinate with the Emergency Operations Center (EOC) for implementation of ESF17 functions, including pet friendly shelters for hurricanes and other scenarios where officers conducting the functions heretofore conducted by BASE and the function of the shelters, together with other entities of the County, for public safety situations.

7. **Legal Representation:** The County shall be responsible at its sole expense for providing timely and effective legal counsel and representation for any inquiries, hearings, court action or other legal matters pertaining to enforcement of its animal control ordinance. The County Attorney's Office ("CAO") shall represent the Sheriff for neglect and cruelty petitions under *Fla. Stat.* 828.073, as well as appeals of dangerous dog declarations. All neglect and cruelty petitions shall be brought in the name of the County and not the Sheriff. Officers shall handle their own citation cases; provided, however, the CAO may provide advice and assistance including court appearances for a citation when significant legal issues are presented.

The Sheriff's Office shall provide service for all petitions, pleadings, motions, notices and other required documents associated with cases which the CAO provides representation in accordance with Paragraph 7.

8. **Independent Contractor:** The County and the Sheriff are each Independent Contractors of one another. It is specifically understood and agreed to by and between the parties hereto that a material provision in this Agreement is that the relationship between the County and the Sheriff is one in which each party and its employees are independent contractors of the other party, and not as agents, employees, joint venturers, or other partners and neither are entitled to any benefits of the other party. Nothing contained herein shall be construed to be inconsistent with this relationship or status.

9. **Amendments to Agreement:** An amendment to this Agreement must be approved by the Chair of the Board of County Commissioners for the County and by the Sheriff. All amendments must be in writing and signed by both parties to be effective.

10. **Termination:** This Agreement may be terminated for cause by vote of the County governing body or by the Sheriff if, after written notice, the party in breach has not corrected the breach within thirty (30) days of receiving such notice; provided, however, that if the nature of the breach is such that it cannot be corrected within thirty (30) days, the aggrieved party may terminate this Agreement pursuant to this provision only if the party in breach has failed to commence action to correct the breach within thirty (30) days of receiving such notice.

This Agreement may be terminated for convenience by either party upon not less than one hundred eighty (180) days written notice.

Any written notices given pursuant to this section shall be provided in accordance with NOTICES section of this Agreement. A notice of termination for breach shall specifically identify the breach and such notice shall be provided in accordance with the NOTICES section of this Agreement.

Upon termination, the Sheriff shall return a prorated portion of the funding compensation the Sheriff received from the County for any month within the year in which the Sheriff will not be providing animal services for the County.

11. **Attorney's Fees/Non-Jury Trial:** In the event of any legal action to enforce the terms of this Agreement each party shall bear its own attorney's fees and costs. Any trial to enforce or interpret the terms of this Agreement shall be non-jury.

12. **Governing Law:** This Agreement shall be governed, interpreted and construed according to the ordinances of Brevard County and of the State of Florida. Venue for any action arising under this Agreement or brought to interpret, enforce or litigate any provision contained in this Agreement shall be brought exclusively in the appropriate state court within Brevard County, Florida.

13. **Entirety of Agreement:** This Agreement represents the entirety of the agreement between County and the Sheriff regarding implementation and all animal services provided by BASE.

14. **Prior Agreements:** This Agreement shall supersede any existing Interlocal Agreements between County and the Sheriff regarding same subject matter.

15. **Severability:** The invalidity of any clause, sentence, paragraph, subdivision, section or portion hereof, shall not affect the validity of the remaining provisions of this Agreement.

16. **Waiver and Remedies:** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Failure to insist upon full performance on any one or several occasions shall not constitute consent to or waiver of any later non-performance nor does transfer of payment by the County to the Sheriff effect any waiver or consent. The parties are entitled to all remedies in law or equity.

17. **Notices:** Except as otherwise provided in this Agreement, any notice required to be provided under the terms of this Agreement shall be delivered by certified or registered mail, return receipt requested, or by personal service to the following person:

For the County: Stockton Whitten, County Manager
 2725 Judge Fran Jamieson Way
 Viera, Florida 32940


For BCSO: Sheriff Wayne Ivey
700 Park Avenue
Titusville, Florida 32780


18. Assignability: Neither party may assign this Agreement without the prior written consent of the other party, but this Agreement shall remain in full force and effect notwithstanding the election or appointment of a sheriff to succeed the Sheriff in office as such.

IN WITNESS WHEREOF, the County and the Sheriff have made and entered into the Agreement on the date hereinafter first written.

ATTEST

**BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS**

BY: 
SCOTT ELLIS
CLERK OF COURT

BY: 
MARY BOLIN LEWIS, CHAIR
(As approved by The Board on MAR 18 2014)

DATE: MAR 18 2014

DATE: MAR 18 2014

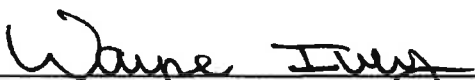


Reviewed for legal form and content:


Assistant County Attorney

DATE: 7/18/14

BREVARD COUNTY SHERIFF'S OFFICE

BY: 
WAYNE IVEY, SHERIFF OF BREVARD
COUNTY, FLORIDA

DATE: 7/29/14

ATTACHMENT A
Services to be Provided by the Sheriff

1. **Animal Services**: The Sheriff shall assume responsibility for all animal enforcement related activity to include the receipt of complaints, dispatch of animal control officers, cruelty and abuse investigations, issuance of citations and warnings, court appearances, investigation of nuisance complaints, transport of animals to the shelter. Animal Services include the operation of a public call center, the dispatch of animal control officers in response to calls, and the handling of calls in the field by animal control officers, including the collection and delivery of animals to NACC or SACC, if appropriate.

2. **Staffing**: The Sheriff shall have sole discretion as to the staffing assigned to what has heretofore been the function of the BASE and shall determine the most expeditious, efficient and effective manner of handling and responding to calls for all animal services to include the following:

- a. The Sheriff shall provide all enforcement of Chapter 14, Brevard County Code of Ordinances.
- b. The Sheriff shall provide all animal licensing support within the County.
- c. The Sheriff shall provide all shelter services and activities within the County.
- d. All current BASE personnel may apply for employment with the Sheriff.
- e. Coordination of animal related incidents occurring in the jurisdictional area comprising Brevard County, to include all municipal areas and coordination with the various law enforcement agencies.
- f. The Sheriff shall provide for the mandatory training, any required certifications and ongoing continuing education for all employees. The Sheriff shall provide community education on animal code and pet owner responsibility.
- g. Enforcement operations shall utilize the Chameleon software, so long as such software remains acceptable to the Sheriff, so that records from initiation of call to final disposition of complaint or animal outcome is all recorded in a single software database that will be shared with the shelter operations program.

3. **Ordinance Enforcement**: When providing service, the Sheriff shall enforce the provisions of Chapter 14, Brevard County Code of Ordinances, as may be amended from time to time.

4. **Sheltering**: Shelter services include the general care, cleaning and nourishment of owner- released, lost, stray or impounded animals. Such services shall be provided 7-days

per week, 365 days per year at NACC and SACC. The Sheriff shall provide all animal sheltering services to the County. The Sheriff shall have sole discretion in determining how animals should be sheltered and shall have sole discretion in determining the most efficient and effective management of all shelter buildings, staff, services, and sheltered animals. The County shall be responsible for all administrative proceedings relating to enforcement of the ordinances. The Sheriff may, in the Sheriff's discretion, relocate any animal shelter from time to time.

5. **Veterinarian Services**: If an animal taken into custody or impounded by BASE is determined to need veterinary services, the Sheriff shall provide such required veterinary services to any animal in the custody or care of the Sheriff. These expenditures shall be a part of the appropriation provided to the Sheriff from the County and shall not be an additional expense.

6. **Dispatch**: Calls for service originating within the County received by the Sheriff dispatch and all dispatch shall be managed by the Sheriff's policies and procedures.

7. **Licensing**: Licensing services include the operation and maintenance of a licensing system in accordance with Chapter 14, Brevard County Code of Ordinances, to include purchase of new licenses, renewal of licenses, and collection of rabies vaccination information.

8. **Dangerous Dog Declarations/Bite Incidents/Reports**: The Sheriff shall respond to and investigate all incidents within the County involving animal bites. The Sheriff shall make the determination whether an animal shall be declared dangerous in accordance with Chapter 14, Brevard County Code of Ordinances, and Chapter 767, Florida Statutes.

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AD#338670,09/04/2014

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of Brevard County, Florida, on September 16, 2014 at 9:00 a.m., in the Commission Room at 2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, FL, 32940, will hold a public hearing on the following ordinance:

ORDINANCE NO.: 2014-

AN ORDINANCE
AMENDING THE
BREVARD COUNTY
CODE OF ORDINANCES,
CHAPTER 14, ARTICLE II,
ANIMAL CONTROL;
PROVIDING FOR
TRANSITION OF ANIMAL
CONTROL AND ANIMAL
SERVICES
RESPONSIBILITIES FROM
BREVARD COUNTY
ANIMAL SERVICES AND
ENFORCEMENT (BASE)
TO AN APPOINTED
ANIMAL CONTROL
AUTHORITY; PROVIDING
FOR AND AMENDING
DEFINITIONS;
PROVIDING FOR AND
AMENDING PROHIBITED
ACTS; PROVIDING FOR
AND AMENDING
ENFORCEMENT AND
PENALTIES; PROVIDING
FOR SEVERABILITY AND
APPLICABILITY;
PROVIDING FOR
INCLUSION IN THE CODE
OF ORDINANCES; AND
PROVIDING FOR FILING
AND AN EFFECTIVE
DATE.

All persons for or against said ordinance can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to such hearing or meeting, he will 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. The needs of hearing or

visually impaired persons shall be met if the department sponsoring the meeting hearing is contacted at least 48 hours prior to the public meeting hearing by any person wishing assistance. The sponsoring department is the County Attorney's Office, Telephone Number: (321) 633-2090.

A copy of the ordinance may be inspected at the following locations:
Brevard County Government Center, Building C Clerk to the Board of County Commissioners
Central Brevard Library Law Library
North Brevard Government Complex, Tax Collector Merritt Island Service Complex, Supervisor of Elections South Brevard Service Complex, Supervisor of Elections
By order of the Board of County Commissioners of Brevard County, Florida

AD#: 338670

Publication: Florida Today

First Published: 11-28-2003

ORDINANCE NO.: 2014-_____

AN ORDINANCE AMENDING THE BREVARD COUNTY CODE OF ORDINANCES, CHAPTER 14, ARTICLE II, ANIMAL CONTROL; PROVIDING FOR TRANSITION OF ANIMAL CONTROL AND ANIMAL SERVICES RESPONSIBILITIES FROM BREVARD COUNTY ANIMAL SERVICES AND ENFORCEMENT (BASE) TO AN APPOINTED ANIMAL CONTROL AUTHORITY; PROVIDING FOR AND AMENDING DEFINITIONS; PROVIDING FOR AND AMENDING PROHIBITED ACTS; PROVIDING FOR AND AMENDING ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR FILING AND AN EFFECTIVE DATE.

WHEREAS, on March 18, 2014, the Board of County Commissioners approved transferring the animal control and animal services responsibilities of Brevard County Animal Services and Enforcement (BASE) to the Brevard County Sheriff's Office (BCSO); and

WHEREAS, the Board of County Commissioners and BCSO have entered into an interlocal agreement appointing BCSO as Brevard County's animal control authority; and

WHEREAS, certain amendments were required to Chapter 14, Article II, Animal Control, of the Brevard County Code of Ordinances, in order to authorize and provide for administration and enforcement of such ordinances by the appointed animal control authority; and

WHEREAS, additional amendments are required to conform with revisions to the Florida Statutes and applicable administrative codes, as well as developments in the case law; and

WHEREAS, certain amendments are necessary and desirable to resolve inconsistencies and ambiguities; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, hereby finds that adoption of this ordinance is in the interest of the health, safety, and welfare, of the people of Brevard County, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1: Chapter 14, Animal Control, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

ARTICLE II. ANIMAL CONTROL

Sec. 14-36. Definitions.
~~Sec. 14-37. Penalty.~~
~~Sec. 14-38. Alternative remedies.~~
Sec. 14-39. Authority and purpose.
Sec. 14-40. Jurisdiction.
~~Sec. 14-41. Administration and enforcement.~~
Sec. 14-42. ~~Proceedings for violations~~Enforcement and penalties.
Sec. 14-43. Resisting, interfering with officer.
Sec. 14-44. Impoundment of animals.
Sec. 14-45. Disposition of impounded animals.
Sec. 14-46. Unauthorized removal from custody.
Sec. 14-47. Disposal of dead animals.
Sec. 14-48. Quarantine of animals.
Sec. 14-49. Classification of dogs as dangerous.
~~Sec. 14-49.5. Reserved.~~
Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation;
destruction.
Sec. 14-51. Failure to surrender animal or carcass.
Sec. 14-52. Rabies vaccination of ~~ferrets, dogs, and cats,~~ and ferrets; rabies
vaccination certificates and animal license tags.
Sec. 14-53. Cruel and inhumane treatment of animals prohibited.
~~Sec. 14-54. Rabies vaccination certificates and animal license tags.~~
Sec. 14-55. Responsibility for animals.
Sec. 14-56. Animal at large.
Sec. 14-57. Creation of nuisance.
Sec. 14-58. Causing injury, property damage.
Sec. 14-59. Defecating, urinating on public or private property.
Sec. 14-60. Public parks and beaches.
Sec. 14-61. Service animals.
Sec. 14-62. Transporting in open bed of vehicle.
Sec. 14-63. Confinement of females in estrus (heat).
Sec. 14-64. Feral animals and feral cat colonies.
Sec. 14-65. Abandonment of animals.
Sec. 14-66. Mandatory neutering of cats and dogs.
Secs. 14-67—14-85. Reserved.

Sec. 14-36. Definitions.

For the purposes of this article, the following words, terms and phrases, shall have the meaning set forth in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender. The word "shall" is always mandatory and not merely supervisory.

~~*Abandon* means for an owner or caregiver to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.~~

~~*Aggressive animal* means an animal that has shown a habit or practice of attacking or exhibiting hostile, injurious or destructive actions or behaviors.~~

~~*Aggressive attack* means an attack without noticeable provocation of the attacker by the attacked.~~

~~*Animal* means any living non-human creature shall have the meaning set forth in F.S. § 828.27, as may be amended from time to time.~~

~~*Animal control authority* means the entity tasked with animal control and animal services for the county. The animal control authority shall be designated by the board and authorized to enforce this article and the animal control laws of the state.~~

~~*Animal enforcement—control officer or animal enforcement officer* means any person employed or appointed by the county who is authorized to investigate, on public or private property, infractions relating to chapter 14 of this Code pertaining to animal control or cruelty to animals, and to issue citations as provided in this chapter, and in accordance with shall have the meaning ascribed to “animal control officer” in F.S. § 828.27, as may be amended from time to time. The terms animal control officer and animal enforcement officer may be used interchangeably herein.~~

~~*Animal services and enforcement director* means the director of the county animal services and enforcement department.~~

~~*Applicable civil penalty* means the civil penalty established by the board for violation of a certain provision of this article.~~

~~*At large* means off the premises of the owner, whether on public or private property, and not under the physical control of the owner any person by means of a leash, cord or chain of sufficient strength to control the animal, not to exceed six feet in length. A police dog or police horse, as defined in F.S. § 843.19, while in use by a law enforcement agency, shall not be deemed to be at large.~~

~~*Baiting* means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, “baiting” means the use of live animals in the training of racing greyhounds.~~

~~*Board* means the Board of County Commissioners of Brevard County, Florida.~~

~~*Caregiver* means any person who provides care, food, water, or shelter, protection, refuge, or nourishment to, or otherwise cares for any animal or undertakes~~

~~the responsibility to do so, feral or tame, over a designated period of time that the person, whether of their own volition or by request of the owner of that animal, provides care for the animal(s).~~

~~Citation means a written notice, issued to a person by an officer, who that the officer has probable cause to believe that the person to whom the citation has been issued has committed a civil infraction in violation of a duly enacted ordinance or code this article, and that the county court shall will hear the charge. Pursuant to F.S. § 828.27, The the citation shall contain:~~

- (1) The date and time of issuance.
- (2) The name and address of the person to whom the citation was is issued.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The ordinance section violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, or to contest the citation, or to appear in court if a mandatory court appearance is required for the violation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he the person shall be deemed to have waived his or her right to contest the citation, and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

~~Council means the animal control authority's designated representatives designated to which will hear appeals of notices of sufficient cause findings as set forth in section 14-49, below.~~

~~County means Brevard County, Florida.~~

Cruelty treatment means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal.

Dangerous dog means any dog that, according to the records of ~~county animal services and enforcement~~ the animal control authority:

- (1) Has ~~without provocation~~ aggressively bitten, attacked, or endangered a ~~human being~~, or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once ~~without provocation~~, severely injured or killed a domestic animal while off the owner's property; or
- (3) Has been used primarily, or in part, for the purpose of fighting, or is a dog trained for dog fighting; or
- (4) Has, ~~without provocation~~ when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in an aggressive, a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons; and dutifully investigated by the appropriate animal control authority.
- (5) ~~A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was teasing, tormenting, abusing, or assaulting the dog or its owner or a family member.~~
- (6) ~~No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.~~

Domestic animal means any horse, cow, goat, sheep, swine, dog, cat, poultry or ~~other historically domesticated beast or bird~~ equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea, or other domesticated beast or bird.

Exotic animal is an animal of any non-domestic species that is not indigenous to Florida.

Farm animal is a domestic animal, not a dog or cat, which is normally raised for harness, riding, food, milk, eggs, or wool for local consumption or sold to others, or those animals bred for those purposes and may be ungulate (such as horses, cattle, sheep, swine, and other animals in the Orders Perissodactyla and Artiodactyla), bird means any animal that customarily is raised or bred on farms including grazing

animals, such as cattle, horses, goats, or sheep, swine, other hoofed animals, bees, fowl or other animals commonly referred to as livestock.

Feral animal means an animal that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication and has no known owner. Stray animals may be feral or tame, but are considered feral where they are not known or are unwanted.

Harborer means any person or entity which ~~performs acts of~~provides care, shelter, protection, restraint, refuge, food or nourishment in such a manner as to control an animal's activities.

~~*High-risk rabies animal* is an animal of a species designated by the National Center For Disease Control as having a high susceptibility to contracting rabies and infecting other animals. It includes members of the families Canidae (dogs), Felidae (cats), Mustelidae (skunks, otters), Procyonidae (raccoons), and certain species of the Order Chiroptera (bats).~~

~~*Hybrid animal* is any animal resulting from a cross between parents that are genetically unlike, such as breeding a domestic cat (*Felis catus*) or dog (*Canis familiaris*) with a wild species of the same family such as bobcat (*Felis rufus*) or wolf (*Canis lupus*).~~

~~*Insecurely fenced property* means real property that an animal can readily enter upon, or leave, by going over, under or through an existing fence, or when an underground pet containment system is used as a sole containment for an animal.~~

Inhumane treatment means acts which are physically cruel to an animal, or which expose an animal to unusual, unnecessary, and otherwise avoidable physical harm.

Kennel means any locked structure or enclosure in which an animal is humanely confined and secured.

License certificate means a county animal license certificate issued pursuant to this chapter.

License tag means a county animal license tag issued pursuant to this chapter.

Licensed veterinarian means any person who is licensed to engage in the practice of veterinary medicine in this state, under the authority of F.S. ch. 474.

~~*Minor injury* is any injury that does not meet the definition of severe injury.~~

Notice means written notice by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48 relating to service of process.

Nuisance means:

- (1) Disturbing the peace and quiet of any person by habitually or continually barking, howling, crying, screaming, or making other bothersome noises; or
- (2) Disturbing the peace of any person by habitually or repeatedly destroying, desecrating or soiling public or private property, chasing persons, livestock, cars or other vehicles, running at large, or other behavior that interferes with the reasonable use and enjoyment of the property.

Officer means any law enforcement officer, ~~as defined in F.S. § 943.10, and any veterinarian, as defined in F.S. § 474.02, and~~ or any animal control officer or animal enforcement officer, as defined in this section.

Owner means any person, firm, corporation, partnership, association, trust, estate or any other legal entity, business unit or organization possessing, harboring, keeping or having control or custody of an animal temporarily or permanently, or, if the animal is owned by a person under the age of 18 years, that person's parent or legal guardian. This definition ~~is intended to~~ shall include any harborer/ or care-giver.

Police dog means any dog ~~which~~ that is owned, or the service of which is employed, by a law enforcement agency for the ~~principle~~ principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

Probable cause means reasonable grounds, based on personal knowledge of facts and circumstances or trustworthy information, sufficient to warrant a belief that ~~there is a violation of this article~~ has been or is being committed.

Secure enclosure means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, consisting of at least 11 gauge chain link wire, and a secure floor, to prevent the dog from escaping over, under, or through the structure, and shall also provide protection from the elements.

- (1) ~~A building in which an animal is confined, such as the owner's dwelling.~~
- (2) ~~A locked kennel with secure top and sides, consisting of at least 11-gauge chain-link wire and secure floor, to prevent the animal from escaping, and which provides protection from the elements.~~

Service animal means ~~any animal, including a non-human primate, that is especially trained to assist or provide personal care services for a disabled person, as defined under the Americans With Disabilities Act~~ an animal that is trained to perform

tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

~~Severe injury means any physical injury to an animal or human that results in a fractured or broken bone or bones, or a damaged ligament, tendon, nerve or vessel, multiple bites, or disfiguring lacerations or injuries requiring sutures, or reconstructive surgery.~~

~~Suitable shelter means shelter that provides the animal or animals suitable protection from rain, sun or elements. For example, a tree does not qualify for dogs or cats but could qualify for horses, cows or other livestock.~~

Sustenance means food or feed appropriate to the species consuming it and providing the essential materials for good health, growth, reproduction and general life functions. It also includes clean, potable water in sufficient quantity and quality to sustain vital functions of the animal and to which the animal has constant access. Both food and water must be in containers designed and situated to allow the animal easy access to them.

~~Underground pet containment system means a device, which uses a buried wire along the perimeter of a premises that transmits a signal to a receiver attached to the collar of an animal, which gives the animal an electronic shock or other warning when the animal approaches the buried perimeter wire to prevent said animal from leaving the premises. This definition includes buried electrical fencing and invisible fencing.~~

~~Unprovoked means an animal attacks despite the victim conducting himself peacefully and lawfully, without threatening, teasing, or attacking the offending animal. that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.~~

Zoonoses or zoonotic disease means those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

Sec. 14-37. Penalty.

~~A violation of this article shall constitute a civil infraction.~~

- ~~(b) The maximum civil penalty for a civil infraction shall not exceed \$500.00 per violation.~~
- ~~(c) By resolution, the board shall establish the amount of any civil penalty for a civil infraction. [See Table 14-1]~~

- (d) ~~Any person who willfully refuses to sign and accept a citation issued by an officer pursuant to this article shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. § 775.082, 775.083 or 775.084.~~
- (e) ~~The county shall request an order to show cause for any person failing to pay the civil penalty, appear in court to contest a citation, or appear in court as required by citation. The order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person issued such order fails to appear in response to the court's directive, that person may be held in contempt of court.~~

Sec. 14-38. Alternative remedies.

~~In addition to the penalties otherwise provided in this article, the board shall have the right to enforce by injunction, or any other appropriate legal means, compliance with the regulations and requirements of this article.~~

Sec. 14-39. Authority and purpose.

This article is hereby enacted pursuant to the provisions of F.S. §§ 125.01 and 828.27, and F.S. ch. 767, with the purpose of regulating the possession, ownership, keeping, care and custody of animals, in the interest of the health, safety and welfare of the people of the county.

Sec. 14-40. Jurisdiction.

This article shall be effective throughout the unincorporated areas of the county and within the incorporated areas of the county to the extent this article does not conflict with any applicable municipal ordinance.

Sec. 14-41. Administration and enforcement.

- (a) The board shall designate an animal control authority ~~employ or appoint an animal services and enforcement director to administer and enforce the provisions of this article.~~
- (b) ~~The board~~ animal control authority ~~may employ animal enforcement control officers to assist in the administration and enforcement of this article. Such animal enforcement control officers shall successfully complete a training program as provided by county policies and in accordance with F.S. § 828.27.~~
- (c) ~~Animal enforcement control officers~~ are not authorized to bear arms or make arrests.

- (d) ~~The animal services and enforcement director and animal enforcement officers may enter upon public property and unfenced or insecurely fenced private property, except residential dwellings, to administer and enforce the provisions of this article.~~
- (ed) ~~The animal services and enforcement director and animal enforcement officers~~animal control authority shall investigate complaints of alleged violations of this article.
- (fe) ~~The animal services and enforcement director~~control authority and ~~animal enforcement~~its officers are hereby authorized to catch, seize or pick up:
- (1) Any sick or injured animal, including any animal subject to cruelty, or in need of immediate medical attention.
 - (2) Any animal infected with, or suspected of carrying, rabies or any other infectious disease.
 - (3) Any dangerous dog not properly confined or restrained.
 - (4) Any animal not properly quarantined.
 - (5) Any animal at large.
 - (6) Any animal causing injury, or threat of injury, to any person by being at large, endangering or chasing persons, or by causing property damage to a person other than the owner of the animal.
 - (7) Any female dog or cat in estrus (heat) not properly confined.
- (gf) ~~The animal services and enforcement director and animal enforcement officers~~animal control authority shall impound any animal caught, seized or picked up pursuant to this article.
- (hg) ~~The animal control authority may engage the services of a licensed veterinarian to treat any sick or injured animal, including any animal subject to cruel or inhumane treatment, or any animal infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.~~
- (h) ~~The animal services and enforcement director~~control authority may declare a dog to be a dangerous dog, pursuant to the provisions of this article, and shall order the owner of such dog to confine or restrain such dog as required by this article. ~~Animal enforcement~~Officers shall

routinely inspect the premises of the owner of such dog to determine compliance with any order of the ~~animal services and enforcement director~~animal control authority under this section, and all other provisions of this article.

- (i) The ~~county~~animal control authority shall conduct an ongoing public information campaign on the problems resulting from abandoning and neglecting animals, and the penalties under law for abandoning or neglecting animals.

Sec. 14-42. ~~Proceedings for violations~~Enforcement and penalties.

- (a) Any officer who has probable cause to believe that any person has committed an act in violation of this article may issue a citation to such person.
- (b) ~~Any citation issued pursuant to this article may be contested in the county court. Unless otherwise specified, any violation of this article constitutes a civil infraction and may be punishable by a maximum civil penalty not to exceed \$500.~~
- (c) ~~If the person issued a citation elects not to contest the citation, that person shall pay the applicable civil penalty to the clerk of the county court within ten business days after issuance of the citation. Within 30 days of the issuance of a citation for a violation of this article, the person cited must comply with one of the following options for disposition of the citation:~~
 - (1) Pay the applicable civil penalty together with the court filing fee and animal control officer training surcharge to the clerk of the county court within 30 days in the manner provided on the citation form. A person making this election shall be deemed to have admitted the infraction and waived the right to a hearing; or
 - (2) Request a hearing to contest the citation in county court, as provided by F.S. § 828.27, through the clerk of the county court, in the manner provided on the citation form.
 - i. The clerk shall schedule a hearing in the county court and cause the person contesting the citation, the citing officer, and any witnesses to be notified of the court hearing by summons.
 - ii. The standard of proof in the court hearing shall be a preponderance of the evidence.

iii. Contesting the citation shall be deemed a waiver of any right to pay the applicable civil penalty, and upon a finding by the court that the civil infraction was committed, the court may order the violator to correct the violation and impose a penalty up to the maximum civil penalty of \$500 plus all costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty. The judge may provide for the civil penalty to be paid, and the violation to be corrected, within such time as the judge determines to be appropriate. If the person found to be in violation fails to pay the civil penalty or correct the violation within the time provided, a civil judgment shall be entered against that person in the amount adjudicated, and any other lawful sanctions may be imposed by the court.

(3) If the person is required to appear in court by this article, as indicated on the citation, he or she does not have the option of paying a civil penalty in lieu of appearing in court.

~~(d) If a person issued a citation elects to contest the citation, that person shall request a hearing before the county court, through the clerk of the county court, within ten business days after issuance of the citation. The clerk shall schedule a hearing in the county court and shall provide written notice of the date, time and location of the hearing to the person issued the citation and the applicable officer. Pursuant to F.S. § 828.27(2)(f), if the person cited fails to pay the applicable civil penalty within 30 days, fails to appear in court to contest the citation, or fails to appear in court as required by this article and indicated on the citation, the court may issue an order to show cause upon the request of the animal control authority. This order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt of court and a civil judgment shall be entered against the person in an amount not to exceed the maximum civil penalty of \$500 plus all applicable costs of prosecution and court costs, but in no event shall any such civil penalty imposed by the court be less than the applicable civil penalty.~~

~~(e) If the person issued a citation fails to pay the applicable civil penalty within the time period allowed, or fails to appear in court to contest the citation, that person shall be deemed to have waived his right to contest the citation and, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty provided for such a violation of this article. Payment of any civil penalty imposed by the county~~

court shall be made to the clerk of court, who shall forward the monies collected to the county.

(f) Civil penalties imposed pursuant to this article shall be independent of and in addition to any fees, cost, or charges arising from the impoundment or registration of animals as provided in this chapter.

(g) As provided by F.S. § 828.27(4)(b), there shall be imposed and collected a surcharge of \$5 upon each civil penalty imposed for violation of this article. The proceeds from such surcharges shall be used to pay the costs of training for animal control officers.

(h) Nothing in this article shall prevent officers from charging violations relating to animal control or cruelty as criminal offenses, when so provided by state law.

(i) In addition to the penalties otherwise provided in this article, the board, or the animal control authority as its designee, shall have the right to enforce by injunction, or any other appropriate legal means, compliance with the regulations and requirements of this article.

Sec. 14-43. Resisting, interfering with officer.

It is a violation of this article for any person to resist, obstruct, hinder or interfere with the animal control supervisor or an animal control officer in the administration or enforcement of this article. Pursuant to F.S. § 828.27(5), any person who willfully refuses to sign and accept a citation issued by an officer may be charged with a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083.

Sec. 14-44. Impoundment of animals.

(a) The board animal control authority may purchase, construct, lease, operate and maintain county shelters, or contract for other shelter facilities, to maintain-impound any animal authorized to be caught, seized or picked up by the animal control supervisor or animal control officer authority.

(b) It is a violation of this article for any person to remove, or attempt to remove, any impounded animal from a county shelter or other shelter facility contrary to the provisions of this section.

(c) The animal control supervisor may engage the services of a licensed veterinarian to treat any sick or injured animal, including any Any animal subject to cruelty found to be cruelly or inhumanely treated, in obvious

distress, or any animal infected with or suspected of carrying rabies, which animal has been impounded pursuant to this article, may be seen by a veterinarian without the owner's consent for examination and treatment, if necessary. The owner of such animal shall be liable for payment of all veterinary and shelter expenses, and reimbursement of the county's expenses for treating such animal.

- (d) By resolution, the board shall establish fees to be charged for impounding, boarding, care and feeding animals pursuant to this article.
- (e) No animal impounded pursuant to this article shall be released until:
 - (1) The owner of an impounded ~~ferret, dog or cat which is not vaccinated against rabies~~ animal, or which does not have a valid rabies license tag, arranges for rabies vaccination and obtains an animal license tag for the ~~ferret, dog or cat~~ animal;
 - (2) The owner of an impounded animal pays the fees for impoundment, board and feed, and any additional fees for rabies vaccination, veterinary expenses, any and all current or outstanding citation fines and/or an animal license tag; and
 - (3) The owner of an impounded animal provides proof of ownership or custody, such as a rabies vaccination certificate, sales receipt, affidavits of neighbors, photographs or other documentary evidence; ~~or.~~
 - (4) If the animal is a dangerous dog is impounded, in addition to the foregoing requirements, the owner of such animal ~~must~~ complies with all provisions of this article applicable to such dangerous dog; ~~and.~~
 - (5) If ~~an~~ the animal which has been subjected to cruelty is ~~impounded~~ is, or will be, subject of a petition seeking relief pursuant to F.S. § 828.073, the court of competent jurisdiction issues an release order, as provided by F.S. § 828.073 that the owner is able to adequately care for, and have custody of, the animal, directing the sale or destruction of the animal, or remanding custody of the animal to the animal control authority or other person or agency.
 - (6) Lawful exercise of discretion by the animal control ~~supervisor~~ authority to destroy an animal or the failure of an owner to redeem an animal shall not relieve the owner of liability for violations, fines and accrued charges and fees, regardless of the ultimate disposition of the animal.

Sec. 14-45. Disposition of impounded animals.

- (a) ~~An animal control officer or designee~~The animal control authority shall attempt to identify and locate the owner of an animal impounded pursuant to this article. If the owner is identified and located, the animal control ~~officer or designee~~authority shall provide notice to the owner that the animal has been impounded and may be redeemed within five (5) business days of such notice. The five-business-day period for redemption shall not include the first day of impoundment. In the event that the last day of impoundment falls on a day that the animal shelter is not open for business, the animal shall be held until the end of the following day that the animal shelter is open for business. Fees shall be assessed beginning on the first day of impoundment or a fraction thereof. For purposes of calculating fees, each day in which the animal spent any time in impoundment is counted as a full day.
- (b) An animal impounded pursuant to this article shall become the property of the ~~county~~animal control authority when:
- (1) The owner of such animal is not identified or located within five days after impoundment.
 - (2) The owner of such animal is notified, but does not redeem the animal within ~~five days after notice~~the five-day redemption period.
 - (3) ~~Confinement of all~~ the animal is wild or feral, animal impoundment creates unusual risks to such animal or an animal control officerany person.
 - (4) ~~Any animal is examined by a~~A licensed veterinarian who determines that the medical condition of the animal warrants humane destruction.
- (c) When an animal becomes the property of the county, the animal control ~~supervisor or designee~~authority may, without further notice to the former owner:
- (1) Transfer ownership of such animal to a humane society, humane agency, law enforcement agency, zoo or other person, institution or agency, provided that such person, institution or agency agrees to record the name and address of the new owner upon subsequent transfer of ownership of the animal; or
 - (2) Destroy such animal in a humane manner.

(d) ~~Any animal subjected to cruelty impounded under this article shall be disposed of as provided by F.S. ch. 828.~~

(ed) Any livestock, as defined in F.S. § 588.13, impounded pursuant to this article shall be disposed of as provided by F.S. ch. 588.

Sec. 14-46. Unauthorized removal from custody.

It is a violation of this article for any person to remove, or attempt to remove, an animal from the custody of the animal control ~~supervisor or an animal control officer~~authority.

Sec. 14-47. Disposal of dead animals.

(a) By resolution, the board shall establish fees to be charged by the county animal control authority to dispose of domestic dead animals from private property.

(b) The owner of any real property may bury or dispose of any dead animal on such property after notice to the animal control ~~supervisor~~authority, unless otherwise prohibited by law.

Sec. 14-48. Quarantine of animals.

(a) ~~The provisions of F.A.C. ch. 64D-3.001 through 64D-3.014, as may be amended or renumbered from time to time, which relate to diseased animals, the quarantine of animals, and zoonosis control and prevention, are hereby adopted by reference in this article. A copy of F.A.C. ch. 64D-3 has been attached to the ordinance enacting this article, and is available for inspection in the office of the clerk to the board of county commissioners, as amended from time to time.~~

(b) It is a violation of this article for any person to commit an act, or cause an act to be committed, which is in violation of any provision of F.A.C. ch. 64D-3 which relates to diseased animals, the quarantine of animals, and zoonosis control and prevention.~~001 through 64D-3.014.~~

(c) Suspected rabid animals, including animals involved in human exposure (bite and non-bite) and animals exposed to rabid or suspected rabid animals, shall be isolated and quarantined or humanely euthanized in accordance with F.A.C. 64D-3.040(3), as may be amended or renumbered from time to time. If quarantine of a ferret, dog or cat animal cannot be maintained at the owner's home, or at another location permitted under F.A.C. 64D-3.043~~040(23)~~, the animal shall be quarantined at a county animal shelter or other shelter facility or at a licensed veterinary clinic having recognized isolation procedures, at the owner's expense. It is a

violation of this article for the owner of a ~~ferret, dog or cat~~any animal to refuse or fail to maintain the animal under rabies quarantine, as required by F.A.C. 64D-3.013040(23) and section 14-41 of this article.

- (d) By resolution, the board shall establish fees to be charged for quarantine of animals pursuant to this article.
- (e) ~~A~~Police dogs and service dogs that have with current rabies vaccination administered by a licensed veterinarian are who bites in the line of duty shall be exempt from confinement under this section, and allowed to continue in a working capacity as provided in F.S. § 767.16.

Sec. 14-49. Classification of dogs as dangerous.

- (a) ~~An~~The animal control officer~~authority~~ shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and victim and require a sworn affidavit from any person, including any animal enforcement officer or other enforcement officer, desiring to have a dog classified as dangerous. ~~The animal services and enforcement director or any animal enforcement officer shall immediately impound any dog that is the subject of a dangerous dog investigation and that dog shall remain impounded until released by the director of the animal services department.~~
- (b) ~~If the animal is quarantined or impounded pursuant to section 14-50 of this article, the animal shall remain impounded and be disposed of in accordance with that section. Any dog animal that is the subject of an a dangerous dog investigation, that is not impounded with the animal services and enforcement control authority shall be humanely and safely confined by the owner in a locked, securely fenced or enclosure enclosed area on the owner's premises pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. The owner shall provide the address where the dog being investigated shall be so confined, and the manner of confinement, during the investigation to the animal control authority services and enforcement director. No dog that is the subject of an a dangerous dog investigation may be relocated or ownership transferred pending the outcome of the an investigation or any hearings related to the determination of a dangerous dog classification. In the event the county determines that a dog is to be destroyed, these same provisions shall apply and the dog shall not be relocated or ownership transferred.~~
- (b) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member. No dog may be declared dangerous

if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

- (c) After the investigation, the animal control authority services and enforcement director shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control authority services and enforcement director shall provide notice written notification of the sufficient cause finding, 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 hearing at the address indicated on the sufficient cause finding within 7 calendar days from the date of receipt of the notification of sufficient cause finding and, if requested, 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 from the owner. Such hearing shall be conducted according to the procedures set forth in subsection (f) below. If the owner fails to request a hearing before the council after receiving within 7 calendar days from the date of receipt of the notification of sufficient cause finding, no further hearing or appeal procedure as set forth in this article shall be available to the owner, and the sufficient cause finding shall become a declaration of the applicable classification animal shall be classified as a dangerous dog. The animal control authority shall provide written notification to the owner by registered mail, certified hand delivery or service.
- (d) In the event the notice of sufficient cause finding classifies a dog as dangerous, the owner may make a written request for a hearing before the animal services and enforcement council within seven calendar days from the date of receipt of the notice of sufficient cause finding. The owner shall make the written request to the animal services and enforcement director at the address indicated on the notice of sufficient cause finding. If requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than five calendar days after the animal services and enforcement director's receipt of the written request from the owner. The board shall nominate appoint an animal services and enforcement control council to affirm or reverse staff's sufficient cause finding conduct dangerous dog classification hearings. The council members shall be one veterinarian and one alternate veterinarian, one dog behavioral trainer and one alternate dog behavioral trainer, and one kennel worker and one alternate kennel worker. Council members shall serve one year or until a replacement is duly appointed. The animal services and enforcement council shall adopt rules of procedure to govern such hearings, as necessary. A copy of the rules of procedure shall be made available to any person who requests a hearing. The council is not

an advisory board subject to the uniform advisory board ordinance, and public comment shall not be required at each council meeting. The council shall hear all relevant evidence from the animal owner, ~~and the animal services and enforcement staff~~ control authority, and any witness with information relevant to the dangerous dog classification, including any victim, if applicable, and, within ~~Within seven~~ 7 calendar days of the council hearing described above, the council shall determine if a dog is to be classified as a dangerous dog. The council ~~animal control authority shall provide notice of its~~ the council's determination to the owner by registered mail, certified hand delivery or service of such dog. If classified as dangerous, the notice shall include the basis for declaring the dog dangerous, a description of the dog, and describe the responsibility of the owner for maintenance of the dog under this article. ~~If the owner fails to request a hearing before the council after receiving the notice of sufficient cause finding, no further hearing or appeal procedure as set forth in this article shall be available to the owner, and the sufficient cause finding shall become a declaration of the applicable classification. The animal services and enforcement director shall provide the owner with notice of such declaration, which shall include the basis for declaring the dog dangerous, a description of the dog, and describe the responsibility of the owner for maintenance of the dog.~~

- (e) If the owner appealed the sufficient cause finding to the council as pursuant to the provisions of set forth in subsection (c) above, and the council has determined the dog to be declared a dangerous dog, the owner may appeal ~~the council's determination by filing~~ file a written request for a hearing before in the county court in and for Brevard County, Florida to appeal the classification within ten ~~ten~~ 10 business days after the owner's receipt of the council's written notice of determination. The owner or the county must continue to confine the dog in a locked, ~~secure enclosure~~ securely fenced or enclosed area pending a resolution of the appeal.
- (f) ~~Within 14 calendar days of the owner's receipt of a declaration after a dog has been classified as dangerous by the animal control authority services and enforcement director, the council's determination after hearing or the animal control council, or of the date a dangerous dog classification is upheld by of the county court order upholding the council's determination on appeal,~~ the owner of the dangerous dog must obtain a certificate of registration for the dangerous dog from ~~county animal services and enforcement~~ the animal control authority, and ~~such the~~ certificate shall be renewed annually. ~~Dogs declared dangerous before October 28, 1997, which have not been subsequently cited for a violation of this article shall be subject to the registration and maintenance requirements of the dangerous dog ordinance applicable at the time the dog was declared; except that any dog declared dangerous as of October~~

~~28, 1992, shall be subject to the insurance requirements of subsection (5), below. The county animal control authority is authorized to issue such certificates of registration, and the renewals thereof, only to persons who are at least 18 years of age and who present to county animal services and enforcement the following~~the animal control authority sufficient evidence of:

- (1) A current certificate of rabies vaccination ~~certification~~ and animal license tag for the dog.
- (2) A locked, secure enclosure to confine the dangerous dog, and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
- (3) ~~Proof of p~~Permanent identification of the dangerous dog, such as a tattoo or an electronic implantation, as specified by the animal control authority~~services and enforcement director, within 24 hours of release.~~
- (4) Payment of the applicable annual fee for the issuance of certificate of registration required by this section. The annual fee shall be established by resolution of the board.
- (5) Payment of any boarding costs, impound fees, any and all current or outstanding civil citations, and any other fines or fees associated with, related to, or arising from the incident, investigation, and any hearing or appeal procedure under this section.
- (6) Proof that the owner has procured liability insurance in the amount of at least \$100,000.00 covering any damage or injury which may be caused by the dangerous dog during the 12-month period for which licensing is sought. The owner shall name the county animal control authority as a certificate holder and notify the animal control authority of any cancellation, modification, expiration or termination of the liability policy required by this section.
- (~~6~~7) The owner shall obtain a dangerous dog tag from the animal control authority~~services and enforcement director or designee~~ which shall be worn by the dog at all times. The purpose of the tag shall be to provide immediate identification to the animal control authority and the public that the dog has been declared dangerous.
- (~~7~~8) The owner shall have the dangerous dog sterilized and shall present appropriate evidence of said sterilization by the veterinarian

who performed the operation within 60 days of the effective date of the dangerous dog declaration.

(89) Within 90 days, the owner shall attend a dangerous dog owner orientation course conducted by the county animal services and enforcement control authority.

(910) Five years after the date that the dog was declared dangerous, the owner may request a reduction of the annual dangerous dog certification fee, as provided by resolution. Any such request shall be granted in the event that there have been no violations of this article since the dog ~~has been~~was declared dangerous.

(g) The owner shall immediately notify the animal control authority services and enforcement director when a dog that has been declared as dangerous is:

(1) Loose, at large or unconfined.

(2) Has bitten a human being or attacked another animal.

(23) Is Sold, given away, stolen or dies.

(34) Is Moved ~~moved~~ to an address other than that stated in the certificate of registration.

Prior to a dangerous dog being 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 article. The animal control authority must be notified by the owner of a dog classified as dangerous when that dog is moved into the county. When the animal control authority receives notice that a dog classified as dangerous is to be moved out of the county, the animal control authority shall provide courtesy notice to the animal control authority of the receiving jurisdiction.

(h) It is a violation of this article for the owner of a dangerous dog to permit, whether intentionally or negligently, the dog to be outside of the locked, secure enclosure described in subsection (f)(2) hereof, unless the dog is muzzled and restrained by a substantial, non-retractable 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 any 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 owner's immediate household are allowed

in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.~~Any dog declared dangerous shall be confined in a secure enclosure on the premises of the owner of such dog. No dangerous dog shall be permitted or allowed off the premises of the owner, unless such owner receives approval by the animal control supervisor, or the dog requires veterinary treatment and remains:~~

- ~~(1) — Inside a locked animal carrier; or~~
 - ~~(2) — Under the physical control of the owner, and is securely muzzled and restrained within the vehicle by a chain or lead, with a minimal tensile strength of 300 pounds and which does not exceed three feet in length; and~~
 - ~~(3) — Subject to such further conditions as established by the animal services and enforcement director.~~
- ~~(i) — It is a violation of this article for any person to release or remove a dangerous dog from a secure enclosure, contrary to the provisions of this section. However, 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 the owner's sight and only members of the owner's immediate household are allowed in the enclosure when the dog is present.~~
 - ~~(j) — No dangerous dog impounded pursuant to this article shall be released until:
 - ~~(1) — The owner of such dangerous dog demonstrates compliance with the requirements of subsection (f), above; and~~
 - ~~(2) — The owner of such dangerous dog executes a sworn affidavit acknowledging that the dog has been declared dangerous, and agreeing to confine and restrain the dog, and recognizing the county's right to ownership and custody of the dog if the dog bites or injures a human or domestic animal without provocation after being declared dangerous.~~
 - ~~(3) — The owner of such dangerous dog has paid all fines and fees associated with this procedure.~~~~
 - ~~(k) — This section does not apply to police dogs engaged in the detection of criminal activity, enforcement of laws or apprehension of offenders used by law enforcement officials for law enforcement work.~~

- (lj) The owner of a dangerous dog shall permit unannounced inspections by animal services and enforcement to determine the owner's compliance with this section.
- (mk) Hunting dogs are exempt from the provisions of 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 the provisions of this act when engaged in any legal procedures. However, such dogs at all other times and respects shall be subject to this section. Dogs that have been classified as dangerous shall not be used for hunting purposes.
- ~~(n) In the event a dog is lawfully declared dangerous pursuant to this section, the owner shall be responsible for a violation of this section and subject to a civil penalty not to exceed \$500.00.~~
- ~~(o) The failure to comply with the requirements contained in this section for keeping and maintaining a dog that has been declared dangerous is~~Any person who fails to comply with any provision of this section commits a violation of this article. In addition to the applicable civil penalty, if the event of a violation which results in an immediate and direct risk of harm to the general public, the animal control authority services and enforcement director shall impound the dangerous dog to dispose of such in a humane manner, after written notice to the owner. If the owner of a dog impounded under this subsection (o) believes that there has not been such a violation, the owner may file a petition for injunctive relief in the circuit court of the eighteenth judicial circuit in and for the county, that the impounded dog not be destroyed. The petition must be filed within the ten business days of the owner's receipt of notice of impoundment of the dog, and notice of the petition must be timely served upon the animal control authority services and enforcement director. If the circuit court finds that there has been no violation of this section, such dog shall be released to the custody of the owner. In the event that the circuit court denies the petition for injunction, the owner shall be responsible for all impoundment fees and maintenance costs incurred for such dog.

Sec. 14-50. Attack or bite by dangerous dog; severe bite by any dog; confiscation; destruction.

- (a) If a dog that has previously ~~has been~~ declared dangerous attacks or bites a person or a domestic animal without provocation, pursuant to F.S. § 767.13, the owner of the dog, upon conviction, shall be is guilty of a misdemeanor of the first degree, punishable as provided ~~under in~~ F.S. §§ 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by ~~county animal services and enforcement~~ the animal control

authority, placed in quarantine, if necessary, for the proper length of time, ~~and or impounded while the animal services and enforcement director investigates and provides, if warranted, and held for 10 business days after the owner with a notice of sufficient cause finding to destroy the dog is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. The notice of sufficient cause finding may be appealed as set forth in section 14-49. If the owner appeals the sufficient cause finding, the dog shall remain impounded for the duration of the appeal process and the owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog animal during any appeal procedure. If the owner fails to appeal within ten calendar days after receipt of the sufficient cause finding, the dog shall thereafter be destroyed in an expeditious and humane manner.~~

- (b) If a dog that has not been previously declared dangerous under this article attacks and causes severe injury to, or death of, any human, the dog shall be immediately confiscated by county animal services and enforcement, placed in quarantine, if necessary, for the proper length of time or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure., ~~and impounded while the animal services and enforcement director investigates and, if warranted, provides the owner with a notice of sufficient cause finding to destroy the dog. The notice of sufficient cause finding may be appealed as set forth in section 14-49. If the owner appeals the sufficient cause finding, the dog shall remain impounded for the duration of the appeal process and the owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure. If the owner fails to appeal within ten calendar days after receipt of the sufficient cause finding, the dog shall thereafter be destroyed in an expeditious and humane manner.~~ In addition, pursuant to F.S. § 767.13, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.
- (c) If a dog that has been previously declared dangerous under this article attacks and causes severe injury to, or death of, any human, pursuant to F.S. § 767.13, the owner of the dangerous dog shall be guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or

775.084. In addition, the dog shall be immediately confiscated by ~~county animal services and enforcement~~the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under section 14-49, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 14-49. 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 any appeal procedure.~~and impounded while the animal services and enforcement director investigates and, if warranted, provides the owner with a notice of sufficient cause finding to destroy the dog. The notice of sufficient cause finding may be appealed as set forth in section 14-49. If the owner appeals the sufficient cause finding, the dog shall remain impounded for the duration of the appeal process and the owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal procedure. If the owner fails to appeal within ten calendar days after receipt of the sufficient cause finding, the dog shall thereafter be destroyed in an expeditious and humane manner.~~

- (d) ~~If the owner requests a hearing under section 14-50(e) or files a written appeal under section 14-49(e) or this section, the dog must be impounded or securely confined as provided in this section~~impounded and held and may not be destroyed while the appeal is pending.
- (e) Pursuant to F.S. § 767.13, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime or noncriminal violation specified under this section.
- (f) ~~It is a violation of this article for the owner of a dog to permit or allow a dog, without provocation to inflict severe injury on a human being on public or private property. In the event it is determined that humane destruction of a dog is justified pursuant to this section, the owner is responsible for~~guilty of a noncriminal violation of this section ~~article and subject to a civil fine~~penalty not to exceed \$500.00, in addition to any criminal charges.

Sec. 14-51. Failure to surrender animal or carcass.

It is a violation of this article for any person to fail to surrender an animal for rabies quarantine, impoundment or destruction, or produce the carcass of a dead animal, upon lawful demand by the animal control ~~supervisor~~authority or any animal ~~control~~officer. A citation issued pursuant to this section shall be set for a mandatory hearing in county court no later than five days from the issuance of the citation. In

addition to the civil penalty provided in this article, the county court shall order the person to comply with the lawful demand for surrender or production by injunction, or any other appropriate legal means.

Sec. 14-52. Rabies vaccination of ferrets, dogs, and cats, and ferrets; rabies vaccination certificates and animal license tags.

- (a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species. The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations. The owner of a ferret, dog or cat in the county shall have their animal vaccinated against rabies and shall maintain that animal with a current rabies vaccination.
- (b) Each ferret vaccinated according to this section must be quarantined, when necessary, according to rules of the Department of Health.
- (c) A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that at the time vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits.
- (d) The owner of a dog, cat, or ferret in the county that is vaccinated against rabies shall obtain a rabies vaccination certificate. Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. The animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the animal control authority that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies vaccine to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature. An identification number shall be printed on the rabies vaccination certificate and shall correspond to the same number on the animal license tag, if required.
- (e) The owner of a dog or cat shall obtain an animal license tag within 28 days of establishing residency in the county, which tag shall be renewed

annually. The animal control authority shall approve the form, content and design of the animal license tag. No other animal license tag shall be valid in the county. Animal license tags shall be issued by the animal control authority, or any licensed veterinarian who administers a rabies vaccination and has been authorized by the county to collect the fee for such animal license tag. An animal license tag shall be valid for a period of one year from the date of issuance. All veterinarians in the county shall display, in a conspicuous place that can be seen and easily read by all customers, a sign indicating that county license tags are required and indicating where they can be purchased.

- (f) The license tag shall be attached to the collar or harness of the dog or cat and shall be worn at all times, except when such animal is confined for treatment in a veterinary hospital or clinic operated by a licensed veterinarian, or while competing in an organized animal show, trial, or training therefor, or by a police dog while being used by law enforcement officials for law enforcement work.
- (g) By resolution, the board shall establish and may change fees to be charged for issuance of rabies vaccination certificates and animal license tags. Any resident of the county who owns or keeps a service animal, and which is being used to assist a disabled person, as defined under the Americans With Disabilities Act, may obtain an animal license tag, when applicable, at no charge.
- (h) If an animal license tag is lost or destroyed, the animal owner shall obtain a replacement animal license tag. A replacement animal license tag may be issued to the owner upon presentation of the corresponding rabies vaccination certificate and payment of the applicable fee.
- (i) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to have the animal vaccinated against rabies as required by this section.
- (j) It is a violation of this article for the owner of a dog, cat, or ferret to fail or refuse to obtain or renew a rabies vaccination certificate or animal license tag when required by this section.
- (k) The owner commits a violation of this article if the owner's dog or cat is without a physically attached animal license tag as required by this section.
- (l) The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has expired.

(m) A rabies vaccination certificate or animal license tag issued for one ferret, dog or cat is not valid for any other animal. The owner commits a violation of this article if the owner's dog or cat wears an animal license tag which has not been issued for such animal, or if the owner presents a rabies vaccination certificate issued for another animal for the purpose of obtaining an animal license tag or demonstrating compliance with this section.

(n) Pursuant to F.S. § 828.30, an animal owner's name, street address, phone number, and animal license tag number contained in a rabies vaccination certificate provided to the animal control authority is exempt from F.S. § 119.07(1) and section 24(a), Art. I of the State Constitution. However, any person who has been bitten, scratched, or otherwise exposed to a zoonotic disease or the physician of such person; a veterinarian who is treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or the owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease shall be provided with any information contained in a rabies vaccination certificate but only with respect to the particular animal biting, scratching, or otherwise causing exposure. Any person with an animal tag license number may receive vaccination certificate information with regard to that animal. Law enforcement and prosecutorial agencies; other animal control authorities; emergency and medical response and disease control agencies; or other governmental health agencies shall be provided information contained in the rabies vaccination certificate for the purpose of controlling the transmission of rabies; however, the receiving agencies and authorities must not release the exempt information.

~~It is a violation of this article for the owner of a ferret, dog or cat to refuse or fail to have the animal vaccinated against rabies as required by this section; provided, however, that rabies vaccination is not required if:~~

~~(1) The animal is less than four months of age.~~

~~(2) The animal has been vaccinated against rabies in another state and that vaccination is current, provided that the owner of such animal presents a certificate of rabies vaccination to the animal control supervisor or designee.~~

~~(3) A licensed veterinarian examines the ferret, dog or cat and certifies in writing that rabies vaccination would endanger the health of such animal because of age, infirmity, disability, illness or other medical condition; provided, however, that the licensed veterinarian presents such certificate to the animal control supervisor within five days after the examination, and that ferret, dog or cat is confined in a secure enclosure until a licensed veterinarian properly administers the vaccination.~~

Sec. 14-53. Cruel and inhumane treatment of animals prohibited.

The provisions of F.S. §§ 828.12 and 828.13, as they may be amended from time to time, are hereby adopted by reference in this article, and shall be enforced as if fully set forth herein. A copy of F.S. ch. 828, is attached to the ordinance enacting this article, and is available for inspection in the office of the clerk to the board of county commissioners. It is a violation of this article for any person to commit cruel or inhumane treatment to any animal. The civil penalty provided for a violation of this section is in addition to, and separate apart from, any criminal penalty for a violation of F.S. §§ 828.12 or 828.13. The term "cruel treatment" means any act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal. The term "inhumane treatment" means acts which are physically cruel or expose an animal to unusual, unnecessary and otherwise avoidable physical harm. The following acts shall be deemed cruel or inhumane treatment to animals; however, this list shall not be construed as excluding other acts which may amount to cruel or inhumane treatment:

- (a) Unnecessarily overloading, overdriving, tormenting, or unnecessarily beating, mutilating or killing any animal, or causing the same to be done, or carrying in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner;
- (b) Intentionally committing an act to any animal, or the person who owns or has custody or control of any animal failing to act, which act or omission results in the animal's cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causing the same to be done;
- (c) Tripping, felling, roping, or lassoing the legs of a horse by any means for the purpose of entertainment or sport, where "trip" means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and "horse" means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof, except that this subsection shall not apply when tripping is used to:
 - (1) control a horse that is posing an immediate threat to other livestock or human beings;
 - (2) for the purposes of identifying ownership of the horse when its ownership is unknown; or
 - (3) for the purpose of administering veterinary care to the horse;
- (d) Impounding or confining any animal in any place and failing to supply that animal, during such confinement, with a sufficient quantity of good and wholesome food and water;
- (e) Keeping any animal in any enclosure without wholesome exercise, rest, sanitary conditions and change of air;

- (f) Abandoning to die any animal that is maimed, sick, infirm, or diseased;
 - (g) Abandonment by the owner or possessor, or person who has charge or custody, of any animal to suffer injury or malnutrition;
 - (h) Abandonment by the owner or possessor, or person who has charge or custody, of any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal
 - (i) Failing to either provide reasonable veterinary care to any maimed, sick, infirm, or diseased animal, or have such animal expeditiously and humanely euthanized, which failure results in the cruel death, or excessive or repeated exposure to unnecessary pain and suffering;
 - (j) Using any animal for baiting or fighting, including, but not limited to, dog fighting, cock fighting, or training any animal for fighting;
 - (k) Intentionally poisoning any animal, or putting out or placing poison at any point or place outside where any animal may access the poison; or
 - (l) Leaving any animal unattended in a parked vehicle with inadequate or no ventilation;
 - (m) Failing to provide adequate shade or protection from the elements; or
 - (n) In the case of a stunt or entertainment act:
 - (1) failing to make allowance for an animal's reasonable limits of endurance;
 - (2) failing to determine whether equipment operated in conjunction with the working animal is in safe operating condition;
 - (3) an animal is killed or injured during the stunt or act; or
 - (4) any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof, including a horse, mule or donkey, is allowed to fall or drop into water from a platform or structure more than ten feet above the water.
- ~~(b) It is a violation of this article for any person to commit an act or omission, or cause an act to be committed, in violation of F.S. §§ 828.12 or 828.13.~~
- ~~(c) Inhumane treatment of animals is prohibited. It is a violation of this article, by any person, to inhumanely treat any animal as set forth herein. For the purpose of this section, the term "inhumane" means acts which:~~
- ~~(1) Are physically cruel; or~~

~~(2) Expose an animal to unusual, unnecessary and otherwise avoidable physical harm.~~

~~(d) Inhumane treatment includes, but is not limited to, any of the following acts or omissions by an animal's owner or caretaker:~~

~~(1) An animal is allowed to become overheated, or is not supplied with adequate food, water, shade or protection from elements.~~

~~(2) An animal which is improperly or inhumanely contained or denied proper exercise or rest, for the purposes of this section, United States Department of Agriculture and Florida Game and Fresh Water Fish Commission regulations pertaining to containment, exercise and rest shall be the standard for proper containment, exercise and rest, as revised from time to time;~~

~~(3) In the case of a stunt or entertainment act~~

~~a. No allowance is made for an animal's reasonable limits of endurance;~~

~~b. The owner or operator has failed to determine whether equipment operated in conjunction with the working animal is in safe operating condition;~~

~~c. An animal is killed or injured during the stunt or act;~~

~~d. An equine animal, including a horse, mule or donkey, is allowed to fall or drop into water from a platform or structure more than ten feet above the water; or~~

~~e. An equine animal is not properly trained for such a fall or drop.~~

Sec. 14-54. Rabies vaccination certificates and animal license tags.

~~(a) The owner of a ferret, dog or cat in the county that is vaccinated against rabies shall obtain a rabies vaccination certificate. The owner shall obtain an animal license tag for each cat or dog annually.~~

~~(b) It is a violation of this article for the owner of a ferret, dog or cat to refuse or fail to obtain a rabies vaccination certificate and animal license tag for the animal as provided by this section.~~

~~(c) All veterinarians in the county shall provide the animal services and enforcement department a copy of each and every rabies vaccination certificate issued. Veterinarians shall display, in a conspicuous place that~~

can be seen and easily read by all customers, a sign indicating that county license tags are required and indicate where they can be purchased.

- ~~(d) — A rabies vaccination certificate or animal license tag are not required if the owner of the ferret, dog or cat has not resided in the county for more than the previous 28 days.~~
- ~~(e) — The animal services and enforcement director shall approve the form, content and design of the rabies vaccination certificate and animal license tag. No other animal license tag shall be valid in the county.~~
- ~~(f) — By resolution, the board shall establish and may change fees to be charged for issuance of license certificates and license tags.~~
- ~~(g) — Any resident of the county who owns or keeps a service animal especially trained for such purpose, and which is being used to assist a disabled person, as defined under the American Disabilities Act, may obtain an animal license tag, when applicable, at no charge.~~
- ~~(h) — A rabies vaccination certificate and animal license tag shall be issued by:
 - ~~(1) — The animal services and enforcement director or designee; or~~
 - ~~(2) — Any licensed veterinarian who administers the rabies vaccination and who has been authorized by the county to collect the fee for such animal license tag.~~~~
- ~~(i) — The rabies vaccination certificate shall be signed by the licensed veterinarian administering the rabies vaccination, and shall list the date of the rabies vaccination, the type of vaccine, information identifying the owner and describing the ferret, dog or cat. An identification number shall be printed on the rabies vaccination certificate and shall correspond to the same number on the animal license tag, if required.~~
- ~~(j) — If an animal license tag is lost or destroyed, the animal owner shall obtain a replacement animal license tag. The replacement animal license tags may be issued to the owner upon presentation of the corresponding rabies vaccination certificate and payment of the applicable fee.~~
- ~~(k) — The license tag shall be attached to the collar or harness of the dog or cat and shall be worn at all times, except when such animal is confined for treatment in a veterinary hospital or clinic operated by a licensed veterinarian, or while competing in an organized animal show, trial or training therefor.~~

- ~~(l) It is a violation of this article for the owner of a dog or cat to permit or allow the dog or cat to be without a physically attached animal license tag as required by this section.~~
- ~~(m) An animal license tag shall be valid for a period of one year from the date of issuance.~~
- ~~(n) It is a violation of this article for the owner of a dog or cat to permit or allow the dog or cat to wear an animal license tag which has expired.~~
- ~~(o) A rabies vaccination certificate or animal license tag issued for one ferret, dog or cat is not valid for any other animal, and it is a violation of this article for the owner to intentionally allow the animal to wear an animal license tag which has not been issued for such animal.~~
- ~~(p) A police dog shall be exempt from wearing an animal license tag while being used by a law enforcement agency.~~

Sec. 14-55. Responsibility for animals.

- (a) The owner of any animal shall exercise reasonable care to protect humans, other animals or property from injury or damage caused by the behavior of such animal.
- (b) The owner of an animal shall exercise reasonable care to prevent such animal, while unattended, from leaving the premises of such owner by:
 - (1) Confinement in a ~~secure enclosure~~securely enclosed, fence, ~~or pen or structure~~ from which the animal cannot dig, climb, jump or escape and which is locked when the animal remains unattended;
 - (2) Restraint by chain, cable and trolley, or other tether of sufficient strength to prevent escape; or
 - (3) Leash and physical control of a person capable of preventing such animal from escaping.
- ~~(c) The use of an underground pet containment system as the sole means of restraining an animal shall not constitute reasonable care as specified in this section.~~
- ~~(ed)~~ The owner of an animal shall exercise reasonable care to maintain such animal off the premises of such owner by:
 - (1) Confinement in a vehicle from which the animal cannot climb, jump or escape; or

- (2) Leash and physical control of a person capable of preventing such animal from escaping.

- (de) It is a violation of this article for an owner or caregiver not to exercise reasonable care in restraining animals as specified in this section.

Sec. 14-56. Animal at large.

No animal shall be permitted or allowed to be at large. It is a violation of this article for the owner of an animal to permit or allow the animal to be at large, whether willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55.

Sec. 14-57. Creation of nuisance.

- (a) No animal shall be permitted or allowed to create a nuisance. It is a violation of this article for the owner of an animal to permit or allow the animal to create a nuisance.
- (b) For the purposes of this section, noise from farm animals, including exotic birds, shall not constitute a nuisance within an AU zoning classification; provided, however, that the following setback requirement shall apply only to exotic birds kept on AU property which abuts non-AU property of a residential character: A minimum set back of 100 feet between the noise source and the abutting non-AU residential property.
- (c) Any nuisance complaint may be investigated by ~~animal services and enforcement~~ the animal control authority. However, before a citation may be issued, the ~~animal enforcement~~ officer must have personal knowledge of the nuisance or at least two affidavits from different parties residing in close proximity to the alleged nuisance must be received. One affidavit may be sufficient to warrant investigation where there is only one party in close proximity to the alleged nuisance.
- (d) It shall be an unlawful nuisance for an animal owner to either be found guilty of or effectively admit guilt to more than four violations of this article within a 12-month period of time. The failure to contest or pay a citation shall be considered an effective admission of guilt for the purposes of this section. A violation of this section is a civil infraction punishable by a fine not to exceed \$500.00.

Sec. 14-58. Causing injury, property damage.

No animal shall cause injury, minor or severe, or threat of injury, to any person, or domestic animal, or cause any property damage to a person other than the owner. It

is a violation of this article for the owner of an animal to permit or allow, whether willfully, negligently, or as a result of the failure to exercise reasonable care in restraining the animal as defined in section 14-55, -the animal to violate this section.

Sec. 14-59. Defecating, urinating on public or private property.

No animal shall be permitted or allowed to defecate or urinate upon any public property, or any private property, without permission of the property owner. It shall be the responsibility of the owner or person in control of the animal to dispose of or remove any excretions caused by the animal. It is a violation of this article for the owner of an animal to permit or allow the animal to defecate or urinate upon any public property, or any private property, without permission of the property owner.

Sec. 14-60. Public parks and beaches.

- (a) No animal shall be permitted or allowed into or on any public park or beach; provided, however, that an area in a public parks or beach may be designated for animals by resolution of the board, or by the governing body of any applicable municipality. In that event, the area provided for animals must be properly identified and posted by the county or the appropriate municipality.
- (b) It is a violation of this article for the owner of an animal to permit or allow the animal into, or on, any public park or beach not designated for animals and not properly identified and posted. However, a disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied into or on any public park or beach by a service animal without violating this section.

Sec. 14-61. Service animals.

Every disabled person, as defined under the Americans With Disabilities Act, shall have the right to be accompanied by a service animal.

Sec. 14-62. Transporting in open bed of vehicle.

Any animal being transported in the open bed of a pickup truck or other similar vehicle from which the animal can easily escape shall be confined inside a locked animal carrier or restrained by a minimum of two tethers, with one tether each being affixed to the opposite side of the ~~truck or other similar~~ vehicle, and both tethers being attached to the collar or harness of such animal. It is a violation of this article for the owner of an animal, as well as the driver of the pickup truck or other similar vehicle being used to transport an animal, to refuse or fail to confine or restrain the animal being transported as required by this section.

Sec. 14-63. Confinement of females in estrus (heat).

Any female dog or cat in estrus (heat) shall be confined ~~in a secure enclosure, veterinary hospital or boarding facility,~~ so as to prevent such dog or cat from coming in contact with another dog or cat, except for intentional breeding purposes. It is a violation of this article for the owner of a female dog or cat in estrus to refuse or fail to confine the dog or cat as required by this section.

Sec. 14-64. Feral animals and feral cat colonies.

- (a) The county may establish a fund or provide services to offset costs of trapping, neutering and vaccinating captured feral cats that can be returned to an appropriate, controlled, and registered colony site. Caregivers for such colonies, whether one or several animals, will be aided by the county in properly managing and caring for those colonies, to the extent that funding is available.
- (b) Each feral cat colony will be registered by the caregivers with an agency designated by the county, which will serve as a clearinghouse for information on current caregivers, education for new caregivers, and assistance for persons found in violation of subsections(c)(1) through (4) below.
- (c) Any feral cat picked up by ~~animal services and enforcement~~the animal control authority which has an appropriate ear tipping or other distinguishing mark indicating it belongs to a registered feral cat colony will be returned to that colony unless veterinary care is required or the criteria listed in subsection 14-64(d) applies. The designated agency will be notified in such instances.
- (d) Any person or caregiver determined to be in violation of subsections (1) through (4) below, shall be issued a written warning and be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance. That period of time shall not exceed 90 days from issuance of the initial warning notice. Failure to comply shall result in a violation of this article, which may result in the issuance of a citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:
 - (1) Register the feral cat colony with the agency designated in subsection (b).
 - (2) Assure responsibility and arrangements for feeding the cat or cat colony regularly throughout the year, including weekends, holidays and vacations of the feral cat caregiver.
 - (3) Sterilize (neuter) all adult cats that can be captured.

- (4) Vaccinate, as required by law, all cats that can be captured:
 - a. Against rabies, preferably with a three-year vaccine,
 - b. And any other infectious disease as mandated by law.
 - (5) Make every attempt to sterilize all kittens over eight weeks of age and before 16 weeks of age.
 - (6) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.
 - (7) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or humane euthanasia.
 - (8) Ear crop all cats with a single cut preferably on the left ear, at least one inch from the outside tip of the auricle. Providing either a tattoo on the inside of the right ear or an electronic implant will aid in animal identification.
 - (9) Maintain proof of sterilization, vaccination, tattoo or implant and medical records for all cats. These records must be provided to animal services and enforcement upon request.
- (e) The animal control authority~~Animal services and enforcement~~ has the right to immediately seize and remove all, or parts, of any colony for the following reasons:
- (1) Public health and public safety concerns including rabies, other epizootic and certain zoonoses identified by the county public health unit; or
 - (2) Animals creating a public nuisance as defined in section 14-36. The designated agency will be notified within 24 hours of removal of any feral cats.
- (f) In the event the feral cat caregiver fails to comply with this section, the designated agency will be notified at least a day before removal of any animal. The designated agency will attempt to resolve the situation prior to removal by the animal control authority~~animal services and enforcement~~.

Sec. 14-65. Abandonment of animals.

Pursuant to F.S. § 828.13, any person who is the owner, possessor, or caregiver, or has charge or custody of any animal who abandons such animal to suffer injury or

malnutrition or abandons any animal in or on a street, road or public place without providing for the care, sustenance, protection and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 770.82, or a fine of not more than \$5,000.00 or by both imprisonment and a fine.

Sec. 14-66. Mandatory neutering of cats and dogs.

(a) All cats and dogs offered for adoption by any public or private animal shelters in Brevard Countythe county must be sterilized (spayed or castratedneutered), by either:

(1) Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) Entering into a written agreement with the adopter or purchaser prior to adoption, unless certified by a veterinarian licensed in Florida that such procedures would be injurious to the animal's health. Shelters may enter into a written agreement with the adopter guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.; in such case, tThe shelter or animal control authority shall require a sufficient deposit from the adopter or purchaser, which deposit shall be refundable upon presentation to the shelter or animal control authority of written evidence by the veterinarian performing the sterilization that the animal has been sterilized. The deposit or donation may be based upon recommended guidelines established by the Florida Federation of Humane Societies, and in the case of county owned shelters, shall be established by resolution of the board. Failure to comply with the provisions of this subsection shall be a noncriminal violation, punishable by civil penalty and forfeiture of the deposit or donation to the shelter or animal control authority. Any legal fees or court costs used for the enforcement of this subsection are the responsibility of the adopter. Upon the request of a licensed veterinarian, and for a valid reason, the shelter or animal control authority shall extend the time limit within which the animal must be sterilized.to cover reasonable costs of the neutering operation. Such deposit will be refundable upon presenting written evidence from the veterinarian performing the surgery that the sterilization has been completed.

(b) It is a violation of this article for any person to fail to comply with the provisions set aboveof this section. A violation of F.S. 823.15 may also be dealt with in accordance with F.S. 812.25(2)(b).

Secs. 14-67—14-85. Reserved.

Civil Penalties for Civil Infractions
 Includes Base Fine Applicable Civil Penalty + \$10.00 Court Cost + \$5.00 Officer Training Surcharge

Code Section	Description of Violation	Offenses			
		First1st	Second2nd	Third3rd	Fourth4th
		(Within 18 months of date of 1st offense)			
14-43	Interference Resisting, interfering with animal control supervisor or officer	\$115 <u>300.00</u>	\$215 <u>400.00</u>	\$315 <u>500.00</u>	\$465 <u>500.00</u>
14-44(b)	Unlawful or unauthorized removal of animal from shelter	\$65.00	\$115.00	\$215.00	\$415.00
14-46	Removal of animal from custody of animal control supervisor or officer authority	\$65.00	\$115.00	\$215.00	\$415.00
14-48(b)	Violation of quarantine (ch. 64D-3 Section 10D-3.061 through 10D-3.087 or 10D-3.090 through 10D-3.093, Florida Administrative Code) (Rabies Report and Quarantine)	65\$215.00	115\$315.00	215\$415.00	415\$500.00
14-48(e)	Failure to maintain dog or cat under rabies quarantine (Section 10D-3.091(2), Florida Administrative Code)	115.00	215.00	315.00	465.00
14-49(e)	Failure to properly register a dangerous animal Violation of dangerous dog restrictions	465.00\$500.00	465.00\$500.00	465.00\$500.00	465.00\$500.00
14-49(h)	Failure to confine or	465.00	465.00	465.00	465.00

	restrain a dangerous animal				
14-49(i)	Release or removal of dangerous animal	115.00	215.00	315.00	465.00
14-49.5(f)	Failure to obtain a hazardous dog registration certificate	115.00	215.00	315.00	465.00
14-49.5(g)	Hazardous dog at large or not properly confined or restrained	115.00	215.00	315.00	465.00
14-49.550(h)	Attack, bite or injury caused by a hazardous dog; attack causing severe injury	115\$500.00	215\$500.00	315\$500.00	465\$500.00
14-51	Failure to surrender animal or carcass of dead animal	65\$300.00	115\$300.00	215\$300.00	415\$300.00
14-52(i)	Failure to vaccinate dog, cat, or ferret	\$120.00	\$215.00	\$315.00	\$415.00
14-52(j)	Failure to obtain rabies certificate or animal license tag	\$120.00	\$215.00	\$315.00	\$415.00
14-52(k) or (l)	Dog or cat without attached animal license tag or with expired tag	\$40.00	\$65.00	\$65.00	\$65.00
14-52(m)	Animal license tag or rabies certification used for animal other than that for which it was issued	\$100.00	\$200.00	\$300.00	\$400.00
14-53	Cruel or inhumane treatment	\$200.00	\$300.00	\$400.00	\$500.00
14-55	Failure to properly secure animal	\$55.00	\$165.00	\$265.00	\$415.00
14-56	Animal at large	40\$55.00	115\$165.00	215\$265.00.00	\$415.00
14-57	Animal creating nuisance Creation of a nuisance	40\$100.00	115\$200.00	215\$300.00	415\$400.00

14-58	Animal causing property damage	\$100.00	\$200.00	\$300.00	\$400.00
14-58	Attack causing injury	\$220.00	\$315.00	\$415.00	\$465.00
14-59	Animal defecating/ or urinating upon public or private property	40\$50.00	115\$65.00	215\$65.00	415\$65.00
14-60(b)	Animal on public park or beach	40\$55.00	115\$65.00	215\$65.00	415\$65.00
14-62	Failure to confine or restrain animal in pickup truck	40\$100.00	115\$200.00	215\$300.00	415\$400.00
14-63	Failure to confine female dog or cat in heat	40\$200.00	115\$300.00	215\$400.00	415\$500.00
14-66	Failure to comply with mandatory neutering	\$75.00	\$125.00	\$250.00	\$500.00
14-53(b)	Violation of F.S. §§ 828.12 or 828.13, (Cruelty to animals)	40.00	115.00	215.00	415.00
14-53(e)	Inhumane treatment of animals	40.00	115.00	215.00	415.00
14-52(b)	Failure to vaccinate dog or cat	40.00	115.00	215.00	415.00
14-54(b)	Failure to obtain license certificate or license tag for dog or cat	40.00	65.00	65.00	65.00
14-54(k)	Dog or cat without license tag	40.00	65.00	65.00	65.00
14-54(m)	Dog or cat wearing expired license tag	40.00	65.00	65.00	65.00
14-54(n)	Dog or cat wearing license tag issued for another dog or cat	40.00	65.00	65.00	65.00

Section 2. Severability. If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

Section 3. Inclusion in 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 Code of Ordinances of Brevard County, Florida, and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

Section 4. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate, federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

Section 5. Area Encompassed. This ordinance shall be effective throughout the unincorporated areas of Brevard County, Florida, and within the incorporated areas of Brevard County, Florida to the extent this ordinance does not conflict with any applicable municipal ordinance.

Section 6. Effective Date. This ordinance shall take effect on the later of October 1, 2014, or upon adoption and filing as required by law. A certified copy of this ordinance shall be filed with the Office of the Secretary, State of Florida within ten (10) days of enactment.

DONE, ORDERED AND ADOPTED, in regular session, this 16 day of September, 2014.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**



Scott Ellis, Clerk

By: 

Mary Bolin Lewis, Chairman
As approved by the Board on _____