

ORDINANCE NO. 14-24

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BAY COUNTY, FLORIDA AMENDING CHAPTER FOUR ARTICLES I-V, ANIMALS OF THE BAY COUNTY CODE; ADDING NEW DEFINITIONS AND REMOVING UNNECESSARY DEFINITIONS; MODIFYING CITATION PROCEDURE; PROHIBITING ANIMALS IN PUBLIC PARKS AND BEACHES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Bay County, Florida as follows:

SECTION 1. Chapter 4, Animals, Articles I through V, are hereby amended as follows:

**CHAPTER 4**

**ARTICLE I. – GENERAL**

**Sec. 4-101. - Enforcement by the Animal Control Division.**

The Animal Control Division Director and those animal control officers, as defined herein, shall be responsible for the enforcement of this Chapter. The powers and authority granted under this Chapter shall be supplemental to the powers and authority already provided for by Florida Statutes, relating to local animal control regulations.

**Sec. 4-102. - Definitions.**

For the purposes of this Chapter, the following terms shall have the following definitions unless the context clearly requires otherwise.

*Adequate shelter* shall mean provision of and access to, a structure with a roof, which is dry, clean and designed to provide access to shade and to protect the animal from the elements.

*Animal* means any live vertebrate creature including mammals, birds, reptiles, amphibians and fish, but not humans, and/or as defined in F.S. § 828.02.

*Animal Control Division* means the Bay County Animal Control Division, which is a division of the Bay County General Services Department, acting alone or in concert with other local governmental units authorized to enforce the animal control laws of cities, the County, or the State.

*Animal control officer* means any individual employed, contracted with, or appointed by the Animal Control Division, who is authorized to investigate violations of State and local law and to enforce civil infractions relating to animal control or cruelty and who is authorized to issue citations, for the purpose of aiding in the enforcement of this Chapter or any other law or ordinance relating to the control and treatment of animals and also includes any State or local law enforcement officer.

*At-large* means any animal off the property of its owner and not under direct control of a competent person. An animal that is not owned and is wandering about both public and private property will be deemed to be at large.

*Caretaker* means any person, household, firm, corporation, or other organization temporarily possessing, harboring, keeping, or having temporary control or custody of an animal; a person must be age 18 or older to be considered the caretaker of an animal. If a person under the age of 18 is considered the caretaker of the animal, the parents or legal guardians shall be considered, the caretakers of the animal and responsible for all matters involving that animal.

*Control* means the provision, ownership, care and/or custody of an animal or animals (see "Physical Control" definition).

*Cruelty* means any act of cruelty upon an animal as defined in Article II Part-2 and/or as provided in F.S. Ch. 828.

*Day* Unless a provision in this Chapter specifically states otherwise, any reference to "day" shall mean a calendar day.

*Direct Control* refers to an animal that is controlled and is obedient to a competent person's commands, is restrained by leash or tether of appropriate length, or other physical control device, or is within a secure enclosure.

*Domestic* means tame, usually by generations of breeding, and living in close association with humans as a pet, work animal or farm animal in such a way that creates a dependency on humans so that the animal loses its ability to live in the wild.

*Feral* means a wild animal that exists in an untamed state or that has returned to an untamed state generally not socialized to human contact and is no longer considered domesticated. Feral animals shall include, but not be limited to cats, dogs and hogs.

*Microchip Identification* - See Radio Frequency Identification Device (RFID).

*Owner* means any person, household, firm, corporation, or other organization possessing, harboring, keeping, or having control or custody of an animal; a person must be age 18 or older to be considered the legal owner of an animal. If a person under the age of 18 is considered the owner of the animal, the parents or legal guardians shall be considered, the legal owner of the animal and responsible for all matters involving that animal. There shall be a rebuttable presumption that the person's name appearing on any animal's registration or radio frequency identification device (RFID), commonly known as a "microchip," is the owner.

*Person* means any individual person, firm, corporation or other organization. The knowledge and acts of agents and employees of a firm, corporation or other organization, with regard to the treatment of animals owned, in the custody of or transported by such firm, corporation or other organization, shall be the knowledge and acts of the firm, corporation or other organization.

*Physical Control* means adequate domination or power to influence/oppress the actions of the animal to prevent the animal from engaging in biting, aggression towards people or animals, straying, being at-large or other behaviors regulated by this ordinance or state law by the use of a proper leash or similar device attached to an appropriate collar or harness.

*Quarantine or ten-day quarantine* means confining an animal for observation of any symptoms of rabies, which confinement is typically for a ten calendar day period from

the date of the bite, scratch or other potential rabies exposure, unless a longer time period is required pursuant to State regulations and guidelines.

*Rabies* means an acute, fatal, infectious disease of the central nervous system that is transmitted when the virus is introduced into bite wounds, open cuts in skin, or onto mucous membranes.

*Radio Frequency Identification Device (RFID)*, commonly referred to as a "microchip", a device about the size of a grain of rice encased in surgical glass that is implanted underneath the skin of a dog, cat or other animal that when scanned produces a unique number that identifies the animal and its owner (if properly registered). When present, an RFID with registration information shall be considered the primary indication of ownership.

*Stray* means any animal that is found to be at-large, whether lost by its owner or otherwise, or that is on the common areas of a residential premises or business, and that does not have an identification tag and for which there is no identifiable owner.

*Sufficient Food* means access to proper food for the species of animal on a regular, ongoing basis in quantities sufficient to maintain a regular body weight.

*Sufficient Water* means access to clean, potable water on a regular, ongoing basis in quantities to prevent the animal from exhibiting signs of dehydration.

*Veterinarian* means an individual who is licensed to engage in the practice of veterinary medicine.

*Wholesome exchange of air* means sufficient ventilation or other means of air exchange adequate to prevent the accumulation of noxious odors and limit airborne disease transfer and adequate air movement in/through the structure.

*Wild animal* is one which possesses a wild nature or disposition or, as a matter of common knowledge, is naturally ferocious, unpredictable, dangerous, or must be kept in confinement to be brought within the immediate power of the owner.

#### **Sec. 4-103. - Administration and enforcement.**

- (a) The Director of the Animal Control Division, animal control officers, and State and local law enforcement officers and other State and local government employees whose duties involve, in whole or in part, the seizure and impoundment of any animal are authorized to investigate, on public or private property, violations relating to animal control or cruelty and to issue civil citations for this Chapter as provided herein. It shall be the duty of animal control officers to take animals into custody that are subject to cruel treatment to ensure the welfare of such animals. An animal control officer is also authorized to capture and impound animals found in violation of this Chapter as provided herein. An animal control officer, who is not also a law enforcement officer, is not authorized to bear arms or make arrests; however such an animal control officer may carry a device to chemically subdue and tranquilize an animal, provided the animal control officer has the prerequisite training pursuant to State law.
- (b) All laws of the State of Florida related to animal control and/or animal care are hereby incorporated in this ordinance by reference. If any provision of State Law is not otherwise expressed in this ordinance, an animal control officer may issue a civil citation or notice of code violation using this subsection and noting the section of Florida Statute violated. Such violations shall be subject to a fine as designated in this Chapter.

- (c) A fine schedule shall be adopted by resolution of the Board of County Commissioners for violations of this Chapter, which shall include progressive violation increases; the schedule may be amended and revised from time to time.
- (d) Animal control officers shall, upon probable cause, when needed to investigate violations, petition any County Court Judge for inspection and/or search and seizure warrants pursuant to their duties herein, and as defined in this ordinance and/or Florida Statutes.
- (e) Animal control officers are authorized to pursue any animal that is in violation of any provision of this ordinance through and across any unsecured property and into non-secure enclosures (excluding dwellings used as a residence).
- (f) Nothing in this Chapter shall prevent the Animal Control Division and/or an animal control officer from seeking enforcement of this Chapter by other legal means as provided in state law or this Code, including enforcement through use of the Bay County Code Enforcement Board or Special Magistrate pursuant to Chapter 7, Article II of the Bay County Code. The County is also authorized to seek injunctive relief against violations of this Chapter.

**Sec. 4-104. - Interference with performance of duties.**

It shall be unlawful for any person to interfere with, prevent or hinder anyone in the performance of any duty required by this Chapter including, but not limited to, removing or attempting to remove an animal from an animal control officer's vehicle, tampering with or removing an animal from an Animal Control Division animal trap, tampering with or destroying signs and/or other County property, interfering with the lawful execution of the duties of an animal control officer or interfering with the lawful impoundment of an animal. All alleged violators of any section of this ordinance shall be required to provide positive photo identification and accurate current residence; failure to do so shall be considered a violation of this section that is subject to a fine as designated in the fines and fees schedule adopted by resolution of the Board of County Commissioners.

**Sec. 4-105. - Procedures.**

- (a) An animal control officer is authorized to issue a citation to a person when the animal control officer has probable cause, based upon direct evidence, observation, or a sworn affidavit from a witness, to believe that the person has committed a civil infraction in violation of this Chapter and the County Court will hear the charge. An animal control officer based upon the individual circumstances and available facts (including any known history), prior to issuing a citation, may issue a warning citation containing an explanation of the circumstances and recommended corrective action and establishing a reasonable time period in which the person must correct the violation. If a warning citation is issued, the animal control officer will perform a follow-up investigation to determine whether the situation still exists.
- (b) Whenever possible, a citation issued by an animal control officer shall be hand delivered to the violator (or the violator's representative having custodial responsibilities at the location of the violation). If the animal control officer is unable to hand deliver the citation, the Animal Control Division shall send a letter by certified mail to the violator. Failure to accept delivery of the certified letter shall be considered a willful refusal to sign for and accept issuance of the citation.
- (c) After issuing the citation, the issuing officer shall deposit the original and one copy of the citation with the County Court in and for Bay County.

- (d) A citation issued by an animal control officer 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 Code Section violated.
  - (6) The name and authority of the animal control officer.
  - (7) The procedure for the person to follow for payment of the civil fine, to contest the citation, or to appear in court as required.
  - (8) The applicable civil fine if the person elects to contest the citation.
  - (9) The applicable civil fine if the person elects not to contest the citation.
  - (10) A conspicuous statement that if the person fails to pay the civil fine within the time allowed, or fails to appear in County Court to contest the citation, the person shall be deemed to have waived his/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 fine.
  - (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.
- (e) Unless cited for a violation for which court appearance is mandatory, a person cited for a civil infraction shall, within ten days of the date of receipt of the citation, either:
- (1) Pay the civil fine to the Clerk of Court, or
  - (2) Obtain a court date from the office of the Clerk of the County Court to appeal the citation.
- (f) If a person fails to pay the civil fine within the time prescribed in the citation or fails to obtain a court date, or having obtained a court date, fails to appear in court to contest the citation, the person shall be deemed to have waived the right to contest the citation. In such case, final judgment may be entered against the person in the maximum civil fine allowed, which shall be payable within 60 days from the date of execution of the final judgment. ~~Alternatively, upon the request of the Animal Control Division, the court may issue an order to show cause, requiring the person to appear before the Court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court in addition to having to pay the civil fine, court costs and restitution, as applicable.~~
- (g) Persons cited for the following must appear in County Court:
- (1) Violations of this Chapter, resulting in the unprovoked biting, attacking or wounding of a person or domestic animal;
  - (2) Violations of this Chapter, resulting in the destruction or loss of personal property;
  - (3) Second or subsequent violations of the animal cruelty or neglect provisions of Article II of this Chapter.
  - (4) Violations resulting from the issuance of a third or subsequent citation to a person.

For citations involving the above listed mandatory court appearance violations, the citation shall specify that the court appearance is mandatory. If person so cited fails to appear within the time prescribed in the citation to obtain a court date or having obtained a court date, fails to appear in court, a default final judgment may be entered against the person in the maximum civil fine payable within 60 days from the date of execution of final judgment. ~~Alternatively, upon the request of the Animal Control Division, the court may issue an order to show cause, require the person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court in addition to being ordered to pay civil fines, court costs and restitution, including attorney's fees incurred by the County in prosecuting such claim, as applicable.~~

**Sec. 4-106. - County Court jurisdiction.**

- (a) The County Court in and for Bay County, Florida shall hear charges of code violations pursuant to the issuance of citations.
- (b) Any person so charged may contest the citation in the County Court.

**Sec. 4-107. - Civil penalties.**

- (a) The maximum fine for each civil infraction under this Chapter is \$500 unless otherwise provided by law.
- (b) Whenever a provision of this Chapter does not establish a specific fine for failing to do any act or thing required or for doing any act or thing prohibited, in addition to court costs, the civil fine for such civil infraction, shall be not less than the amount designated in the fine schedule adopted by resolution of the Board of County Commissioners. Unless otherwise specifically provided in this Chapter, ~~each animal is considered a separate violation, and each section and subsection is considered a separate violation.~~

Minimum penalties are hereby established considering the following:

- (1) The gravity of the violation.
  - (2) The potential harm to the public.
  - (3) The danger to the animal or other animals.
  - (4) The potential adverse effect(s) on animals or people.
  - (5) The previous violations.
  - (6) The deterrent effect for future violations or violators.
- (c) A person who has committed a civil infraction, but does not contest the citation and pays the infraction in a timely manner, shall be assessed an uncontested fine amount as established by resolution of the Board of County Commissioners.
  - (d) Any person who willfully refuses to sign and accept a citation issued by an animal control officer shall be in violation of F.S. § 828.27(5) and this ordinance and shall be punished by a fine not to exceed \$500 and any other punishment authorized by law.
  - (e) A \$5 surcharge shall be charged and collected upon each civil fine imposed for each violation of this Chapter, as authorized by F.S. § 828.27(4)(b). If the court adjudicates the violation as suspended or guilty with no fine, the surcharge shall still be charged and

collected upon that violation, even if court costs are not assessed. The Clerk of the Court shall deposit the proceeds from such surcharge into a separate account for Animal Control and the funds shall be used only to pay for costs associated with training for animal control officers as required by state law.

## **ARTICLE II. - CRUELTY TO OR NEGLECTING ANIMALS**

### **Sec. 4-201. - Cruelty to animals defined generally.**

It shall be unlawful for any person to cause, procure or inflict cruelty to or upon animals, whether or not such cruelty results in severe injury or death. For purposes of this Part, it shall be considered causing, procuring and/or inflicting cruelty, if one or more of the following occurs:

- (a) Beating, tormenting, torturing, mutilating, molesting, sodomizing, maiming, intentionally poisoning, overloading, overworking or overdriving an animal; or
- (b) Any act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused,

### **Sec. 4-202. - Exemptions.**

The provisions of this Part do not apply to:

- (a) Lawful hunting of an animal by a properly permitted person in compliance with Florida Statutes and the rules and regulations of the Commission;
- (b) Efforts by lawful authorities to control an animal that is posing an immediate danger to other animals or humans;
- (c) Humane disposition of an animal by animal control, a humane society or society for the prevention of cruelty to animals, a veterinarian or as allowed by law;
- (d) Killing of an animal for human consumption performed in compliance with applicable Florida Statutes, rules and regulations;
- (e) Those procedures done in the interest of medical science and performed in compliance with applicable Florida State Statutes, rules and regulations; and
- (f) Those procedures done for the purpose of administering veterinary care.
- (g) Any surgical procedure that is performed by a licensed veterinarian that is not otherwise prohibited by law, including but not limited to ear cropping, dewclaw removal or tail docking.

### **Sec. 4-203. - Neglecting or abandoning animals.**

It shall be unlawful for any person to neglect or abandon an animal. For purposes of this Part, it shall be considered neglect or abandonment if one or more of the following occurs:

- (a) Failing to provide any one of the following: sufficient water; sufficient food; adequate shelter to protect the animal from extreme weather, necessary veterinary care/treatment to prevent suffering, sufficient exercise, and wholesome exchange of air.

- (b) Placing or confining an animal or allowing it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or under conditions or for such a period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water, or such other circumstances as may be expected to cause suffering, debility or death.
  - (1) A law enforcement officer or animal control officer who finds an animal in a vehicle in violation of this section may enter the vehicle by using the amount of force reasonably necessary to remove the animal.
  - (2) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.
- (c) Caging or confining an animal and failing to supply the animal, during such caging or confinement, with sufficient water, sufficient space, sufficient exercise and with sufficient food;
- (d) Abandoning an animal upon or beside any street, road or other public or private place; or
- (e) Forsaking entirely and leaving to die any animal that is maimed, sick, infirm or diseased.

**Sec. 4-204. – Multiple acts of cruelty.**

A person who commits multiple acts of animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.

**ARTICLE 3. – NUISANCES**

**Sec. 4-301. - General.**

It shall be an unlawful nuisance to keep or feed any animal, domestic or wild, in a manner that causes any one or more of the following: creates unsanitary conditions or objectionable odor; is a source of infestation by insects or rodents; and/or creates physical conditions that endanger the health or safety of humans. This subsection shall not apply to animals maintained on land zoned for agricultural purposes, nor shall it apply to a properly permitted animal shelter established for the care and/or placement of unwanted or stray animals, nor a properly zoned commercial boarding kennel, veterinary clinic, or other animal facility.

**Sec. 4-302. - Noise.**

- (a) It shall be unlawful for the owner, or any caretaker of an animal or animals to allow the animal(s), to bark, meow, whine, howl, or to make other sounds common to the species, persistently or continuously for a period of 30 minutes or longer when the animal is not contained within an enclosure sufficient to baffle loud noises and render them reasonably unobjectionable. This subsection shall not apply to animals maintained on land zoned for agricultural purposes, nor shall it apply to a properly permitted animal shelter established



for the care and/or placement of unwanted or stray animals, nor a properly zoned commercial boarding kennel or other animal facility.

- (b) An owner or custodian of the animal(s), may be cited for violation of this Section when either the investigating officer has received, from at least two unrelated adult witnesses from different residences, a sworn affidavit attesting to the committing of a nuisance pursuant to such Section or subsection, or the citing officer has witnessed the commission of such a nuisance. Affidavits attesting to the nuisance must come from residents within a three-block radius (approximately 900-foot radius).

**Sec. 4-303. Animals-at-large prohibited. Prohibitions against animals-at-large and animals in beaches and parks.**

- (a) No owner or caretaker of any animal(s) shall permit the animal(s) or fail to restrain the animal(s) from being at-large, except a dog shall be considered exempt from these provisions if:
  - (1) The dog is engaged in the performance of duties while under the supervision and control of law enforcement officials performing law enforcement work.
  - (2) The dog is engaged in any legal hunt or training procedure, including training or exhibiting in legal sports.
  - (3) The dog is in a County-designated or legally established "off-leash" dog park and is under the supervision of the owner or a responsible person.
- (b) No owner or caretaker of an animal shall willfully allow such animal into or upon any beach or public park. This section shall not apply to any dog trained to aid a disabled person or to any parks or beaches in which animals are specifically authorized.
- (c) A violation of this Section shall subject the violator to a civil fine of not less than the amount designated in the fine schedule adopted by resolution of the Board of County Commissioners. Each separate occasion is considered a separate violation. The animal control officer may cite the owner of such animal(s) for violation of this Section when either the animal control officer has received, a sworn affidavit from a witness attesting to the animal's having committed a nuisance pursuant to this Section, or the citing animal control officer has witnessed the commission of such a nuisance.

**Sec. 4-304. - Destruction of property and biting.**

Except where an exemption under this Chapter applies:

- (a) No owner or caretaker of an animal(s) shall permit the animal(s), either willfully or through failure to exercise due care or control to destroy or damage the property of another including, but not limited to, the unprovoked biting, attacking or wounding of another person's animal(s).
- (b) No owner or caretaker of an animal(s) shall permit the animal, either willfully or through failure to exercise due care or control, to bite, attack or wound a human without provocation.
- (c) The provisions and penalties of this Section shall be separate from and in addition to the provisions of Part 4 Article IV regarding dangerous dogs.

**Sec. 4-305. - Injury to animals by motor vehicles; reporting requirement.**

Any operator of a motor vehicle that has injured an animal shall immediately notify the Sheriff or the Animal Control Division and advise as to the location of the injured animal. Failure to notify one of these authorities may constitute a violation of this Section punishable by a fine of not less than the amount designated in the fine schedule adopted by resolution of the Board of County Commissioners.

**Sec. 4-306. – Rabies vaccination requirement.**

- (a) Dogs, cats and ferrets shall be vaccinated against rabies as required by F.S. § 828.30 unless an exemption under that statute exists. Proof of vaccination shall consist of a rabies vaccination tag and a certificate signed by the veterinarian administering the vaccination.
- (b) Each owner of a dog, cat or ferret shall show proof of current vaccination of such dog, cat or ferret within 72 hours of a request for such information by an animal control officer.

**Sec. 4-307. - Procedure for animal bites and for animals suspected of having rabies.**

In accordance with Florida Administrative Code Chapter 64D-3 "Control of Communicable Diseases" and its requirements, guidance and provisions establishing certain protocol for the Florida Department of Health in the handling of suspected and known rabies cases, the provisions of 64D-3, as they may be amended from time to time, are hereby incorporated in this ordinance by reference. If there are any discrepancies between the wording of the following ordinance section and the provisions of 64D-3 FAC, the provisions of Florida Administrative Code shall prevail. Nothing herein shall be subject to the provisions of F.S. Chapter 120.

- (a) When a domestic animal has bitten a person or is suspected or believed to be infected with rabies, the animal shall be confined and isolated at the direction of the Animal Control Division and at the owner's expense for a period of time as determined by the Animal Control Division, but not less than ten days from the time of exposure. Quarantine of the animal shall be either with a veterinarian or at the county animal shelter. No animal which has been impounded for the purposes of quarantine shall be released during the quarantine period to either the owner or any other person seeking adoption. After the Animal Contract Division orders the quarantine, it shall inform the Florida Department of Health in Bay County ("FDOHBC") who shall then supervise all quarantines and determine when, and if, the animal will be released from quarantine. Unless the animal is being held longer pursuant to another part of this Chapter, after the quarantine period has expired, the owner shall pay accrued impounding, boarding fees, and any other additional costs.
- (b) In certain cases, home quarantine of an animal which has bitten a person may be permitted. The initial decision to allow home quarantine of an animal shall be made by the investigating animal control officer. In the event of any dispute regarding the appropriateness of the quarantine location, the FDOHBC shall have the sole and final discretion in the matter. The home quarantine may be revoked by the FDOHBC or Animal Control Division if either agency determines that the owner is not properly confining the animal, in which case the animal shall be impounded by the Animal Control

Division and confined either with a veterinarian or at the county animal shelter for the duration of the quarantine period.

- (c) It shall be unlawful for any person to refuse to give up or surrender to an animal control officer or to the FDOHBC an animal which has bitten a human or is suspected of having rabies.
- (d) Whenever an animal, suspected of having rabies or otherwise posing a threat to public health or safety, cannot be captured by reasonable means to effect the quarantine, or where capture and quarantine cannot be effected safely, the Sheriff or other law enforcement may be summoned, and such law enforcement officer is authorized to use firearms to stop or slay the animal. If that cannot be safely accomplished, the Animal Control Division is authorized to use whatever means necessary to protect the public safety and welfare.

#### **ARTICLE IV. - DANGEROUS DOGS**

##### **Sec. 4-401. - Intent.**

The Bay County Board of County Commissioners ("Commission") finds that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of Bay County because of unprovoked attacks which cause injury to persons and domestic animals. The Commission further finds that existing laws inadequately address this growing problem and that it is appropriate and necessary to impose uniform requirements for owners of dangerous dogs. It is Commission's intent, in enacting this Part, to incorporate the provisions regarding "dangerous dogs" found in F.S. Ch. 767. To the extent that there is a conflict between state statute and this Code, the provisions of this Code shall apply.

##### **Sec. 4-402. - Definitions.**

As used in this Part, unless the context clearly requires otherwise:

- (a) *Dangerous dog* means any dog that according to the records of the appropriately authority:
  - (1) Has aggressively bitten, attacked, or endangered a human 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 or private property other than the owner's property in a menacing fashion or in an apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons dutifully investigated by the appropriate authority.
- (b) *Unprovoked* means that the victim who has been conducting himself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

- (c) *Severe injury* means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.
- (d) *Proper enclosure of a dangerous dog* shall have the meaning described in Sec. 4-405.
- ~~(e) *Animal control authority* means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county, or state.~~
- ~~(f) *Animal control services officer* means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.~~
- ~~(g)~~(e) *Owner* means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian.

**Sec. 4-403. - Exemptions.**

A dog shall be considered exempt from these provisions as provided in F.S. Ch. 767.

**Sec. 4-404. Classification of dog as dangerous; notice and hearing requirements; confinement of dog; appeal; registration requirements.**

- (a) Investigation and initial sufficient cause determination:
  - (1) An animal control officer 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 animal control officer or enforcement officer, desiring to have a dog classified as a dangerous dog. Any dog that is the subject of a dangerous dog investigation may be impounded by the Animal Control Division pending the outcome of the investigation and any related hearings and appeals. Upon request by the owner, the Director of the Animal Control Division has the discretion to allow impoundment on the premises of a veterinarian in appropriate circumstances as an alternative to impoundment in the County animal shelter. An animal control officer is authorized to enter any building or place, except a building used for a private residence, in order to seize any suspected dangerous dog. If the dog is within a private residence, and the occupant of the residence or the owner of the suspected dangerous dog refuses to surrender it, the Animal Control Division may obtain, from a court of competent jurisdiction, a warrant to seize the dog. It shall be unlawful to fail or refuse to surrender the dog on demand by the Animal Control Division.
  - (2) Any dog that is the subject of a dangerous dog investigation, but that is not impounded by the Animal Control Division, shall be humanely and safely confined by the owner in a proper enclosure pending the outcome of the investigation and any related hearings and appeals. The owner shall cooperate with the Animal Control Division's investigation and provide all reasonably requested information including the address of

where the owner secures the dog. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation, and any hearings and appeals, related to the determination of a dangerous dog classification. In the event that a dog is to be euthanized, the dog shall not be relocated or ownership transferred.

- (3) After the investigation, the Animal Control Division shall make an initial determination as to whether there is sufficient cause to classify the dog as a dangerous dog. The Animal Control Division shall provide to the owner written notification of the sufficient cause finding by signature certified mail, hand delivery by an animal control officer, or service in conformance with the provisions of F.S. Ch. 48 relating to service of process. The owner may file a written request for a hearing with the code enforcement board to challenge the initial determination, within seven calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not sooner than five and not later than 21 calendar days after receipt of the request from the owner. The hearing shall be conducted before the code enforcement board or a Special Magistrate and notice of the hearing shall be provided to the owner by certified mail, hand delivery by an animal control officer, or service in conformance with the provisions of F.S. Ch. 48 relating to service of process. If the owner does not file a written request for a hearing within seven calendar days of receipt of the notification of the initial sufficient cause determination, the notification of sufficient cause finding becomes the final determination of classification without requiring additional notification to the owner.
  - (4) Hearings before the code enforcement board or Special Magistrate shall be conducted in accordance with Chapter 7, Article II, Section 7-31 of the Bay County Code.
  - (5) If the Code Enforcement Board or Special Magistrate upholds the dangerous dog classification after a hearing, the Animal Control Division shall provide written notification to the owner by certified mail, hand delivery by an animal control officer, or service in conformance with the provisions of F.S. Ch. 48 relating to service of process. The owner may file a written request for a judicial appeal, based on the original hearing record, of the administrative determination in the County Court within ten business days after receipt of a written determination of dangerous dog classification. The dog may be impounded by the Animal Control Division pending a resolution of the appeal.
- (b) The owner of the dangerous dog shall be responsible for payment of all boarding costs and other fees as required if the Animal Control Division impounds the dog during the investigation, hearing and/or any appeal. If the dog is determined not to be a dangerous under the provisions of this ordinance or state law, the Animal Control Division shall process a refund of boarding and intake fees upon the owner's request.
  - (c) Within 14 days after a dog has been classified as a dangerous dog by the Animal Control Division, 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 Division, that shall include, at a minimum, the following information: name, address and telephone number of the dog's owners; the address where the dog is harbored if different from the owner's address; a complete identification of the dog including sex, color and any distinguishing physical characteristics, a color photograph of the dog. The certificate must be renewed annually. The Animal Control Division is authorized to issue such certificates of registration, and renewals thereof, to persons who are at least 18 years of age and who present to the Animal Control Division sufficient evidence of the following:
    - (1) Proof that the owner has a current certificate of rabies vaccination for the dog;

- (2) Proof that the owner has obtained ~~for the dog permanent identification~~, such as an electronic radio frequency identification device (RFID) implantation;
  - (3) A proper enclosure to confine the dangerous dog, as defined in Sec. 4-405, and the posting of the premises with clearly visible warning signs at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
  - (4) Proof that the owner is the fee simple owner of the property upon which the proper enclosure is located or, alternatively, proof of permission from the fee simple owner of the property upon which the proper enclosure is located;
  - (5) Proof that the owner has obtained insurance as required in this Part; and
  - (6) Proof that the dog has been surgically sterilized by a veterinarian unless the dog cannot be spayed for health reasons, as certified in writing by a licensed veterinarian.
- (d) The owner is responsible for pre-payment of all boarding fees during the time it takes to complete these requirements. If the owner does not comply with all of these requirements within 14 days, ownership reverts to the County, and the dog shall be euthanized in an expeditious and humane manner. Notice of the potential humane destruction of the animal for failure to comply shall be included in the notice of final ruling on the dangerous dog.
- (e) Dogs declared dangerous shall not be allowed in any off-leash dog park within Bay County.
- (f) A dangerous dog declaration is permanent and may never be removed from the dog once the determination has been finalized and the time for all appeals has passed.

**Sec. 4-405. - Proper enclosure for dangerous dogs.**

- (a) The owner of a dangerous dog must obtain and maintain a proper enclosure to confine the dog and must have posted on the premises a clearly visible warning sign at each entry point that informs both children and adults of the presence of a dangerous dog on the property.
- (b) "Proper enclosure for a dangerous dog" 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. An owner who uses a personal residence (house or building) as the proper enclosure must also have an approved pen or structure available for alternate use. The personal residence is only considered a proper enclosure for a dangerous dog when adult supervision by the owner or a competent individual acting as the owner's agent is present; if anyone other than direct family members are present, the residence alone is not considered a proper enclosure and a lockable pen or structure must be utilized when a person or people other than the owner's immediate family is/are present, or if the dog is left alone in the residence. The pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements, sufficient space, and sufficient food and water. If the dog is maintained outside, a portion of the owner's property must be fenced with a secured perimeter fence, serving as a secondary enclosure, at least six feet in height providing at least five feet of distance between all sides of the fence and the primary enclosure or of sufficient height and strength to prevent entry by the public and to prevent the dog's escape from the owner's property if the dog escapes from the primary enclosure. It is not considered a proper enclosure to simply tether or otherwise tie a dog to an inanimate object, such as a tree or post, inside a perimeter fence.

**Sec. 4-406. - Insurance.**

In order to protect the public and to afford relief from the severe harm and injury that is likely to result from a dangerous dog attack, the owner of a dangerous dog shall obtain and maintain insurance in the minimum amount of \$ 100,000 for each individual dangerous dog owned to provide liability insurance for damage to persons and property caused by the dangerous dog(s). The insurance shall be provided by an insurance company authorized to do business in the State of Florida, and the owner shall ~~add the Bay County Board of County Commissioners as an Additional Insured to his/her liability policy and~~ shall provide the Animal Control Division evidence of a certificate of insurance and a copy of the endorsement. Alternatively, the owner may post a \$100,000 surety bond with the Clerk of Bay County conditioned upon the payment of damages to persons and property caused by the dangerous dog during the period of registration, renewable annually. Annual registration shall be denied any owner not in compliance with this section. If, at any time, the liability insurance is cancelled or lapses, the Animal Control Division shall have the authority to impound the dangerous dog. If the owner does not re-insure the animal within 14 days of the impoundment, ownership of the dog shall revert to the County and the dog shall be euthanized in an expeditious and humane manner

**Sec. 4-407. - Dangerous dog outside of proper enclosure; outside of primary enclosure.**

- (a) A dangerous dog must not be outside a proper enclosure unless the dog is muzzled and securely restrained by a leash or similar device of not more than four feet in length and is under the control of the owner or competent custodian 18 years of age or older. 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 human or animal. The owner may exercise the dog outside of its primary enclosure without a muzzle or leash only if the dog remains on the owner's property within the secured perimeter fence and only if the dog remains within the owner's sight and control at all times and only members of the owner's immediate household or persons 18 years of age or older are allowed within the perimeter fence while the dog is present. When being transported, such dog must be safely and securely restrained within a vehicle.
- (b) No dangerous dog shall be chained, tethered or otherwise tied to any inanimate object, such as a tree, post or building that is outside its proper enclosure.

**Sec. 4-408. - Required notification concerning dangerous dog.**

The owner shall immediately notify the Animal Control Division when a dog that has been classified as dangerous:

- (a) Is loose or unconfined;
- (b) Has attacked or bitten a human or another animal;
- (c) Has died; or
- (d) Is relocated to another address.

During the dangerous dog investigation, and after a final determination that the dog is dangerous, a dangerous dog may not be sold or given away.

**Sec. 4-409. - Attack or bite by dangerous dog; impoundment; destruction.**

If a dog that has previously been classified as a dangerous dog is believed to have attacked or bitten a person or animal without provocation, an animal control officer shall immediately impound the dangerous dog, placing it in quarantine if necessary, and after notification to the owner, the dog shall be euthanized in a humane and expeditious manner after a ten business day period. During that ten business day period, the owner may notify the Animal Control Division in writing of the owner's request for a hearing in accordance with Sec. 4-413.

**Sec. 4-410. - Severe injury by dog; impoundment; destruction.**

Whether or not a dog has been previously classified as a dangerous dog, if a dog attacks a human, causing severe injury to or the death of the human, an animal control officer shall immediately impound the dog, placing it in quarantine if necessary, and after notification to the owner, the dog shall be euthanized in a humane and expeditious manner after a ten business day period. During that ten business day period, the owner may notify the Animal Control Division in writing of the owner's request for a hearing in accordance with Sec. 4-413.

**Sec. 4-411. - Additional charges.**

Nothing in this Part precludes criminal prosecutions pursuant to Florida Statutes.

**Sec. 4-412. - Violation of this Part Article.**

An animal control officer may immediately impound a dangerous dog if the owner fails to comply with any of the requirements for maintaining a dangerous dog and, after notification to the dog owner, the dog shall be euthanized in an expeditious and humane manner unless the owner requests a hearing within ten business days in accordance with Sec. 4-413.

**Sec. 4-413. Hearings Process/Appeals.**

Hearings regarding and appeals involving dangerous dog designations shall be handled in accordance with Sec. 4-404. Dogs impounded for violation of any other provision of this Part Article shall be held for 10 business days to allow an owner to notify the Animal Control Division in writing of the owner's intent to request a hearing on the decision to euthanize a dog in front of the Bay County Code Enforcement Board or Special Magistrate. After a final decision of the Code Enforcement Board or Special Magistrate to uphold the decision to euthanize, the owner must file a written appeal, based on the original hearing record, in the County Court within ten business days after the Code Enforcement Board or Special Magistrate's final written order. The Animal Control Division shall impound the dog during any appeal period under this section so long as the owner pays in advance, by cash or certified check payable to the Bay County Board of County Commissioners, the estimated costs associated with impounding the dog. Should the animal have to be boarded beyond the original estimated time covered by the pre-payment of fees, the owner shall be required to pay in advance by cash or certified check the estimated weekly costs of boarding and care until a final decision has been reached. Failure to pay impound and boarding fees for any consecutive 10 day period shall constitute abandonment, which would authorize the County to immediately euthanize the dog. The owner shall also be responsible for any other fees or medical costs during the impoundment. The owner shall be provided with a written information form advising of the consequences for failure to pay for impoundment.



**Sec. 4-414 - Offspring.**

If a dog who is impounded pursuant to this Part has puppies during the impoundment period, the owner shall be entitled to claim the puppies when, in the judgment of the Animal Control Division Director, the puppies are appropriately weaned. When the puppies are born, the owner shall be provided written notice. The owner shall have 10 ~~business~~ days from the date notice is received, to claim ownership of the puppies and to pay, in advance, by cash or certified check payable to the Bay County Board of County Commissioners, the estimated costs associated with boarding both the puppies and the mother, including payment of any other associated medical costs or fees. If the puppies are not claimed within this ten day period, or if the appropriate boarding/medical fees are not paid in accordance with this Section, the puppies shall be considered abandoned and ownership shall revert to the Bay County Animal Control Division. Should the puppies have to be boarded beyond the original estimated time covered by the pre-payment of fees, the owner shall be required to pay in advance by cash or certified check the estimated weekly costs of boarding and care until the puppies become weaned or can be released to the owner.

**ARTICLE 5. - IMPOUNDMENT, SURRENDER, REDEMPTION AND ADOPTION**

**Sec. 4-501. - Impounding of animals.**

- (a) An animal control officer is authorized to capture and impound, in a place maintained or designated for that purpose, any animal that has bitten, is stray, at-large, abandoned, sick, neglected, subject to cruel treatment, dangerous, or as otherwise authorized by this Chapter.
- (b) If the Animal Control Division picks up an injured or sick animal, the animal may be taken to a veterinary hospital or facility that can provide medical aid. If veterinary care would be futile, the animal may be immediately euthanized in a humane manner. If the animal is reclaimed by its owner, such owner shall reimburse the Animal Control Division for all costs incurred relative to the sick or injured animal, including first aid and veterinary care.
- (c) Holding periods established:
  - (1) ~~ACPS~~ The Animal Control Division shall shelter and care for impounded potentially owned, adult dogs and cats, whether tagged or stray, for three days, beginning the day of capture (intake) and excluding official holidays recognized by the County or when the shelter is otherwise closed to the public.
  - (2) Puppies and kittens estimated to be less than six months of age, without an actively nursing mother, shall have no required holding period for placement.
  - (3) The County shall have with no required holding period for feral animals before disposition. All dogs and cats that are so unsocialized as to pose a threat to the safety and welfare of employees or the public shall be expeditiously and humanely euthanized.
- (d) The Animal Control Division shall not be required to shelter and care for any feral, wild, or exotic animals.
- (e) The Animal Control Division shall not be required to shelter or care for any animal that is severely sick, injured, or fearful, has a contagious disease, or is deemed a danger to the community or an undue risk to County employees, unless such animal has a currently registered microchip or ownership information is available in the form of a pet tag or private

identification tag on the animal and holding such animal would not cause it unjustified pain or suffering. All animals without such positive, traceable identification that meet the previous criteria shall be expeditiously and humanely euthanized.

**Sec. 4-502. - Redemption by owner.**

- (a) Except as otherwise provided in this Chapter, the owner of any impounded animal may redeem the animal, upon payment to the County of the following:
  - (1) An impound fee for each animal redeemed;
  - (2) A boarding fee per animal, per day;
  - (3) All outstanding fines and final judgments, except for any fine of which a timely appeal is pending;
  - (4) All veterinary charges and other medical expenses;
  - (5) The cost of an implanted and registered radio frequency identification device (RFID)(microchip).
- (b) The Board of County Commissioners shall establish a fee schedule, which may be amended from time to time.

**Sec. 4-503. - Voluntary surrender by owner.**

- (a) Owners wishing to surrender an animal shall be allowed to do so at the discretion of the Animal Control Division. Every owner who voluntarily surrenders an animal must provide a valid photo identification that shows proof of residence and sign a form acknowledging that the surrender is voluntary and acknowledging the discretion of the Animal Control Division to dispose of the animal. Animal Control Division shall not be liable for the disposition of any voluntarily surrendered animal after receipt of the animal from its owner. The animal shall be immediately available for adoption, placement or other appropriate disposition once surrendered.
- (b) Owners surrendering animals shall be responsible for paying an intake fee.
- (c) Owners wishing to surrender an animal with the request for euthanasia shall be allowed to do so at the discretion of the Animal Control Division. It is not the policy or practice of Animal Control Division to supply "on-demand" euthanasia procedures, but in the interest of relieving a suffering animal, the Animal Control Division may provide the service for a fee or at no charge, at its sole discretion.
- (d) No owner surrendered or stray animals from outside the Animal Control Division jurisdiction shall be accepted except for humane reasons; such animals shall be referred to another agency. The photo identification of the owner/person wishing to surrender an animal that shows an address outside of the Animal Control Division jurisdiction shall be used as the origin of the animal.

**Sec. 4-504. - Adoption.**

- (a) A person adopting an animal shall be required to sign an adoption agreement, in a form approved by the County Manager or his designee, and pay any applicable adoption fee.

- (b) Any dog or cat adopted from Animal Services shall be sterilized and vaccinated prior to release to the new owner. If the sterilization of the animal cannot be done at the time of adoption because of health reasons, then the person shall pay a deposit guaranteeing sterilization, as required by F.S. § 823.15.
- (c) To be eligible for a refund of the sterilization deposit, the adopter shall: 1) On or before the thirtieth day after the date of adoption, or prior to the date of sexual maturity, employ a veterinarian to sterilize the adopted animal; and 2) On or before the thirtieth day after the date of adoption, or prior to the date of sexual maturity, present the Animal Control Division with written documentation from the veterinarian that the sterilization was performed. If these requirements are not met, the adopter shall forfeit the deposit and the Animal Control Division may issue the adopter a citation. Pursuant to F.S. §823.15(2), an adopter who fails to comply with the provisions of this section shall be liable for legal fees and court costs to enforce the provisions of this section.
- (d) The Animal Control Division shall extend the time limit within which an animal must be sterilized for a valid reason documented in a written request by a licensed veterinarian.

**Sec. 4-505. - Proper identification and address verification.**

In order to redeem or adopt an animal, a person must be at least 18 years of age and provide photo identification or other proof of residency.

**Sec. 4-506. - Conditions preventing redemption or adoption.**

- (a) No animal that has been in recent contact with a rabid animal may be redeemed or adopted until the animal has been held for the prescribed period of observation.
- (b) No animal that is infected with, or is suspected of being infected with, any dangerous disease that is communicable to humans or other animals including, but not limited to, rabies, distemper, and parvo virus, may be redeemed or adopted, and shall be expeditiously and humanely euthanized.
- (c) No dog previously classified as a dangerous dog may be redeemed pending any hearing requested by the owner to stop a destruction order, nor adopted; and no animal that is considered by the Animal Control Division to be aggressive and a danger to the community, even if not previously classified as dangerous, may be adopted.
- (d) No animal prohibited by law from being kept as a household pet may be redeemed or adopted.

**Sec. 4-507. - Disposition of unredeemed and surrendered dogs and cats.**

The Animal Control Division, at its discretion, may adopt, medically treat and/or place with an appropriate facility or agency equipped for care of such animals, or humanely dispose of any impounded animal that is not redeemed by the owner, if any, after the time period provided in Sec. 4-6501 and any animal that is voluntarily surrendered. No live unredeemed animal or voluntarily surrendered animal may be disposed of by selling or giving such animal to any person or entity for the purpose of using the animal for experimentation, for medical or other research, or for food or other commercial processing. Animals may be placed with foster homes to provide shelter for animals requiring extended care in order that they may become adoptable.

**Sec. 4-508. – Tampering with animal traps or capture devices.**

No person shall willfully tamper with, remove, alter, destroy, or disable any animal control trap, cage or capture device, set out or placed by an animal control officer or a person or organization authorized by the Animal Control Division. Any person who violates this section is subject to a fine in an amount set by resolution of the Board of County Commissioners.

SECTION 2. SEVERABILITY. It is hereby declared to be the intent of the Board of County Commissioners of Bay County, Florida that if any section, subsection, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 3. INCLUSION IN CODE. It is the intention of the Board of County Commissioners of Bay County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Bay County, Florida: that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention: and that the word "ordinance" may be changed to "section", "article" or other appropriate designation.


SECTION 4. EFFECTIVE DATE. A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect immediately in accordance with Section 125.66 (2), Florida Statutes.

DULY ADOPTED in regular session this 21 day of OCTOBER 2014.

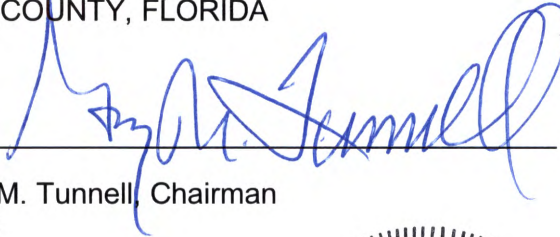
ATTEST:

BOARD OF COUNTY COMMISSIONERS

BAY COUNTY, FLORIDA

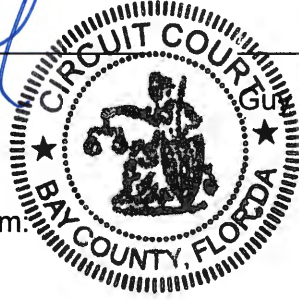


Bill Kinsaul, Clerk



Guy M. Tunnell, Chairman

Approved as to form.

  
Office of County Attorney