

## Chapter 5 - ANIMALS

*Footnotes:*

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**Charter reference**— General powers of county, § 103.**Cross reference**— Health and human services, ch. 20; nuisances, ch. 28.**State Law reference**— Powers of chartered counties, Fla. Const. art. VIII, § 1(g); cruelty to animals generally, F.S. ch. 828.

## ARTICLE I. - IN GENERAL

Secs. 5-1—5-25. - Reserved.

## ARTICLE II. - ANIMAL SERVICES

*Footnotes:*

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**Editor's note**— The editor has changed the title of this article from "Animal Control" to "Animal Services" in light of a similar change in § 5-26.

Sec. 5-26. - Title.

This article may be cited as the "Myles Leakes Animal Services Ordinance" or the "Orange County Animal Services Ordinance."

(Code 1965, § 3-2; Ord. No. 87-9, § 2, 3-9-87; Ord. No. 91-8, § 2, 4-2-91; Ord. No. 2005-07, § 2, 7-12-05)

Sec. 5-27. - Authority and purpose.

This article is enacted pursuant to F.S. § 828.27, to regulate the possession, ownership, care, and custody of animals in the interest of the health, safety and welfare of the citizens and animals of the county.

(Code 1965, § 3-3; Ord. No. 87-9, § 3, 3-9-87; Ord. No. 91-8, § 3, 4-2-91; Ord. No. 95-32, § 1, 9-26-95)

**Charter reference**— General powers of county, § 103.**State Law reference**— Powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 5-28. - Reserved.

**Editor's note**— Ord. No. 2002-04, § 2, adopted June 4, 2002, repealed § 5-28, in its entirety. Former § 5-28, pertained to breeder license tags and derived from Ord. No. 95-32, § 2, adopted Sept. 26, 1995; Ord. No. 87-9, adopted Mar. 9, 1987; Ord. No. 91-8, § 4, adopted April 2, 1981; and Code 1965, § 3-4.

Sec. 5-29. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandon* shall mean 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 or keeper. Such abandonment shall constitute the relinquishment of all rights and claims by the owner to such animal, in accordance with F.S. § 705.19. An animal will not be considered abandoned if the owner or keeper arranges for a person to feed, water, and monitor the animal's condition on a scheduled or regular basis. Intervals between monitoring, watering, and feeding shall not exceed twenty-four (24) hours. An animal shall be considered a stray after thirty (30) calendar days.

*Animal* shall mean any living dumb creature.

*Animal services classification committee* shall mean a committee appointed by the board of county commissioners to hear appeals regarding the classification of dogs as dangerous or potentially dangerous.

*Animal services officer* shall mean any person employed, contracted with or appointed by the county who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue warnings and citations as provided in this article. An animal services officer is not authorized to bear arms or make arrests. The term "animal services officer" also means "code enforcement officer" but only for the purpose of providing confidentiality and exemption from public disclosure of the home addresses and telephone numbers of animal services officers.

*At-large* shall mean:

- (1) With regard to a dog:
  - (a) A dog off the owner's premises and not under a competent person's control by means of a leash, cord or chain; or
  - (b) A dog on the owner's property and not under control of a competent person or not confined or restrained by means of a leash, cord or other humane restraining device;
  - (c) Provided, however, a dog under supervision and engaged in hunting or agricultural or ranching tasks or a competition, trial or show, or designated dog park shall not be considered at large.

- (2) A cat, off the owner's premises, which does not display a current rabies vaccination or identification tag.

*Certificate* shall mean a certificate issued by the county or a licensed veterinarian showing that the animal has been currently vaccinated for rabies.

*Certificate of registration* shall mean a county dangerous or potentially dangerous dog registration issued pursuant to this article.

*Citation* shall mean a written notice, in form required by F.S. § 828.27, and issued by an officer to a person, either in person, by certified mail, or by conspicuous posting upon a dwelling, when 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. The citation shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the person.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The ordinance 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.
- (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/she shall be deemed to have waived his 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 a person required to appear in court as ordered does not have the option of paying a fine in lieu of appearing in court.

*Clinic* shall mean a low-cost spay/neuter facility, operated by the county to perform spay and neuter surgeries, administer rabies shots, provide vaccination tags, and provide emergency care to animals impounded by the animal services division.

*Commercial kennel or pet dealer* shall mean any premises used for a business requiring an occupational license wherein any person engages in boarding, breeding, buying, letting for hire or training dogs or cats for a fee. County-operated animal services agencies, veterinary clinics, animal hospitals, noncommercial kennels, and societies for the prevention of cruelty to animals (as identified in

F.S. § 828.03) are exempt from this definition.

*Competent person* shall mean a person of such maturity as to be able to exercise control over an animal.

*Control* shall mean the regulation of the possession, ownership, care, and custody of animals.

*Cruelty* shall mean any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal, as defined in F.S. § 828.02.

*Dangerous dog* shall mean any dog that, according to animal services division records; other animal control or law enforcement authorities; or as attested to by sworn affidavit:

- (1) Has aggressively bitten, attacked or endangered or has inflicted severe injury on a human being on public or private property, including the owner's property other than in defense of the owner, or the owner's home, in response to an action of the person injured or attacked;
- (2) Has severely injured or killed a domestic animal while off the owner's property;
- (3) Has been used primarily for the purpose of dog fighting or is a dog trained for dog fighting; or
- (4) 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 (1) or more persons and dutifully investigated by the animal services division.
- (5) Dogs used by law enforcement officials for law enforcement work are exempt from dangerous dog classification.

*Division manager* shall mean the animal services division manager or designee authorized to administer and enforce the provisions of this article.

*Domestic animal* shall mean any dog, cat, ferret, rabbit, or bird that has been domesticated so as to live and breed in a tame condition.

*Every possible effort* shall mean attempting to locate the owner of an animal through reasonable means, which may include but is not limited to, the search for an identification tag, tattoo, micro-chip or canvassing of the neighborhood.

*Feral cat* shall mean an untamed domestic cat living in the wild that has had little or no human contact and is not socialized.

*Keeper* shall mean any person having temporary (less than thirty (30) calendar days) possession, custody or control of an animal.

*Licensed veterinarian* shall mean any person who is licensed to engage in the practice of veterinary medicine in the state under the authority of F.S. ch. 474.

*Neglect* shall mean failure to provide food, water, shelter, adequate ventilation, protection from the elements, or other care generally considered to be normal, usual and accepted for an animal's health and well-being.

*Neutered or spayed* shall mean rendered permanently incapable of reproduction by surgical alteration, implantation of a device, or other physical means.

*Noncommercial kennel* shall mean any premises used primarily as the domicile of an animal owner, on which premises said owner breeds purebred or nonpurebred animals for personal recreational use; provided that where said animals are offered for sale, sold or exchanged for profit, said sales shall comprise no more than twenty-five (25) percent of said owner's income.

*Nuisance* shall mean:

- (1) Any domestic animal that disturbs the peace and quiet of a neighboring resident by habitually and repeatedly barking, howling, crying, screaming, whining or making other bothersome noises; or
- (2) Any domestic animal that chases automobiles, other vehicles, livestock, or other domestic animals or runs at large; or acts in an aggressive manner; or
- (3) Any domestic animal that destroys or damages public or private property or causes a serious annoyance so as to interfere with the reasonable use and enjoyment of public or private property; or
- (4) Any domestic animal that urinates or defecates on public or private property without the property owner's consent; or
- (5) Any domestic animal which is an unwelcome guest on private or public property.

*Officer* shall mean any law enforcement officer defined in F.S. § 943.10, or any animal control officer.

*Owner* shall mean any person or legal entity possessing, harboring, keeping or having control or custody of an animal on or within their own real property or, if the animal is owned by a person under the age of eighteen (18), that person's parent or guardian. Any person or legal entity who provides food, water, shelter, or care for an animal for thirty (30) calendar days shall be considered to be the owner of said animal.

*Potentially dangerous* shall mean any dog that, according to animal services division records, other animal control or law enforcement authorities, or as attested to by sworn affidavit, has posed a threat to public safety by:

- (1) Causing an injury to a person or domestic animal that is less than a severe injury; or

- (2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or
- (3) Without provocation, repeatedly acting in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
- (4) Dogs used by law enforcement officials for law enforcement work are exempt from potentially dangerous dog classification.

*Proper enclosure of a dangerous dog* shall mean that 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, top, and flooring to prevent the dog from escaping over, under or through the structure and shall also provide adequate ventilation and protection from the elements.

*Proper enclosure for a potentially dangerous dog* shall mean a securely constructed fenced area, in good repair and condition, that the dog is unable to climb over, dig under, or in any way pass or reach through if the dog is to be allowed off leash outside the owner's residence. This area must have secure gates that are to be locked at all times when the animal is present.

*Provoked* shall mean to tease, molest, torment, abuse, assault, or to instigate behavior in a dog or cat that may lead to the animal attacking or biting a person or another animal.

*Restraining device* shall mean a chain, cord, or cable, with a minimum length of ten (10) feet, used to confine an animal on an owner's property. This device must provide for humane, unrestrained range of movement for the animal to insure that the animal is not exposed to hazard or injury and shall not prevent the animal from having food, water, shelter, adequate ventilation, protection from the elements or other care generally considered to be normal and usual. This device shall be proportional in size, weigh no more than one-eighth ( 1/8 ) of the dog or puppy's body weight, and designed for use with the specific breed of animal with an appropriate collar. These devices shall not be used to confine a dog on an owner's property between the hours of 9:00 a.m. and 5:00 p.m., three hundred sixty-five (365) days a year and during times of extreme weather, e.g., hurricanes, below freezing conditions.

*Severe injury* shall mean any physical injury to a human being or animal that results in broken bones, multiple/repeated bite punctures, disfiguring lacerations or injuries requiring sutures or reconstructive surgery.

*Shelter* shall mean a secure weather resistant structure which protects an animal from exposure to the elements including but not limited to, rain, cold, wind and heat, that provides for adequate ventilation, and in size is a minimum of six (6) inches higher than the animal's height at full stand with head erect, one and one-half (1½) times the animal's full body length, and sufficient in width to permit the animal to turn around.

*Stray* shall mean an animal without any known owner or keeper to provide food, water, or shelter for a period of at least thirty (30) calendar days.

*Tag* shall mean a rabies vaccination tag issued pursuant to this article.

*Truck tether system* shall mean a system designed to keep a dog securely attached and restrained in the back of a truck, safe and free of hazard and away from the sides of the truck.

*Unprovoked* shall mean a victim who has conducted himself/herself peacefully and lawfully, and has been bitten, chased in a menacing fashion, or attacked by a dog.

*Vaccinated* shall mean an animal that has been administered a current one-year or three-year rabies vaccine.

*Wholesome exercise* shall mean uninhibited movement for a period of time sufficient for the physical well being of an animal, considering the size, age, and breed of that animal.

*Wildlife* shall mean any nonhuman primate, raccoon, skunk, opossum, fox, reptile, large feline, or any other animal so classified by the Florida Fish and Wildlife Conservation Commission.

*Working day* shall mean any calendar day excluding Sundays and county holidays.

(Code 1965, § 3-6; Ord. No. 87-9, § 6, 3-9-87; Ord. No. 91-8, § 5, 4-2-91; Ord. No. 95-32, § 3, 9-26-95; Ord. No. 2002-04, § 3, 6-4-02; Ord. No. 2005-07, § 3, 7-12-05)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

#### Sec. 5-30. - Rules and regulations.

- (a) The board of county commissioners may enact rules and regulations to implement and carry out the provisions of this article.
- (b) The board of county commissioners may enact rules and regulations to govern dangerous animals.

(Code 1965, § 3-7; Ord. No. 87-9, § 7, 3-9-87; Ord. No. 91-8, § 6, 4-2-91)

#### Sec. 5-31. - Animal services division manager.

- (a) The county mayor, pursuant to the county's Charter, shall employ a division manager to administer and enforce the provisions of this article.
- (b) The manager of the animal services division shall have operational responsibility for overseeing and supervising all day-to-day activities of the division.
- (c) Pursuant to law, the division manager and animal services officers may enter upon public and private property, except residential buildings, to administer and enforce the provisions of this

article.

- (d) The division manager and animal services officers shall investigate formal complaints of alleged violations of this article and shall issue citations or warning notices requiring that violations cease or be corrected. The division manager or his/her designee shall endeavor to report back to the person filing the complaint within forty-eight (48) hours regarding the outcome of the investigation and shall record the effort to make such report.
  - (e) Formal complaints shall be investigated. An officer who observes a violation may take any remedial action the officer deems necessary, including issuing citations.
    - (1) To initiate an animal services investigation, an oral or written statement of complaint must be provided to the animal services division setting forth the nature of the complaint, the date and time of the act, a description of the animal and the name of the owner of the animal, if known by any person who reports an alleged violation of this article.
  - (f) The division manager and animal services officers may capture, seize or pick up:
    - (1) Any animal at large;
    - (2) Any domestic animal constituting a nuisance;
    - (3) Any dangerous or potentially dangerous dog not in compliance with the written notification of their classification;
    - (4) Any dog being considered for dangerous or potentially dangerous classification;
    - (5) Any female dog or cat in heat, not properly confined by the owner or keeper;
    - (6) Any neglected, abused, cruelly treated, sick or injured animal or animal at risk of injury or death;
    - (7) Any animal for the purpose of quarantine or rabies testing as ordered by the state department of health;
    - (8) Any animal deemed to be abandoned; and
    - (9) Any animal released to the county by a veterinarian or a law enforcement official.
  - (g) The division manager and animal services officers may impound any animal captured, seized or picked up pursuant to this article. However, the division manager or animal services officers shall make a reasonable effort to determine who owns an animal prior to impoundment. If the animal is returned to the owner without impoundment, the animal services officer shall issue a warning or a citation for the applicable violation.
  - (h) The division manager may waive fees or citations for hardship or extenuating circumstances.
- (Code 1965, § 3-8; Ord. No. 87-9, § 8, 3-9-87; Ord. No. 91-8, § 7, 4-2-91; Ord. No. 95-32, § 4, 9-26-95; Ord. No. 2005-07, § 4, 7-12-05)

Sec. 5-32. - Classification of dogs as dangerous or potentially dangerous; confinement and quarantine of animals; exemption; appeals; unlawful acts.

- (a) The animal services division shall investigate incidents involving any dog that may be dangerous or potentially 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 dangerous or potentially dangerous. An animal that is subject to a dangerous or potentially dangerous dog investigation will be impounded at animal services pending the outcome of the investigation and resolution of any hearings related to the dangerous or potentially dangerous dog classification. Alternative impoundment locations will only be considered for extenuating circumstances. 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 or potentially dangerous classification.
- (b) By resolution, the board of county commissioners will appoint an animal services classification committee and delineate its duties and responsibilities.
- (c) The division manager shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous or potentially dangerous. The division manager shall classify any dog as a dangerous or potentially dangerous dog in the event he/she determines that the dog meets the requirements for dangerous or potentially dangerous dog as specified in section 5-29, Orange County Code. A dog shall not be classified as dangerous or potentially 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, tormented, abused or assaulted the animal or its owner or a family member or a guest of the owner. No dog may be classified as dangerous or potentially dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault. The division manager shall provide written notice to the owner or keeper of such animal by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process. The written notice shall include the basis for declaring the dog dangerous or potentially dangerous, a description of the dog, and the responsibility of the owner or keeper for maintenance of the dog. If the owner decides to appeal the initial determination of dangerous or potentially dangerous, they may request a hearing before the animal services classification committee to show cause why such dog should not be declared dangerous or potentially dangerous. The request for a hearing must be filed, in writing, with the division manager within seven (7) working days after receipt of written notice of the division manager's determination or action. The written hearing request must briefly state the grounds therefore and list the names and addresses of any witnesses the owner intends to call at the hearing. If

the division manager receives a timely written request for a hearing regarding a dangerous or potentially dangerous dog classification, he/she shall immediately refer the request, completed investigation, and initial determination to the classification committee. The classification committee shall schedule a hearing to be held not more than twenty-one (21) working days and no sooner than five (5) working days after the division manager's receipt of the request from the owner.

- (d) If the classification committee upholds the division manager's determination that a dog is dangerous or potentially dangerous, the division manager shall send a written notice of such classification, by registered mail or certified hand delivery, to the owner of the animal classified as dangerous or potentially dangerous. If the classification committee upholds the division manager's determination that the dog is dangerous or potentially dangerous, or if the classification committee is unable to meet the time frames set forth in this section, or is unable to make a decision, the owner may file a written request with the clerk of the court for a de novo evidentiary hearing in the county court, pursuant to F.S. § 767.12, to appeal the classification within ten (10) business days after receipt of the classification committee's determination of dangerous or potentially dangerous dog classification. The owner must confine the dog in accordance with subsection 5-32(e) as defined pending a resolution of the appeal.
- (e) Within fourteen (14) calendar days after a dog has been classified as dangerous or potentially dangerous, the owner of the dog must obtain a certificate of registration and dangerous or potentially dangerous dog identification tag for the dog from the animal services division. The dog shall wear the identification tag at all times. The certificate of registration shall be renewed annually. Certificates of registration shall only be issued to persons who are at least eighteen (18) years of age and who present to the animal services division sufficient evidence of:
  - (1) A current certificate of rabies vaccination for the dog. The current rabies vaccination tag shall be displayed on the dog at all times.
  - (2) An approved enclosure to confine a dangerous or potentially 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 or potentially dangerous dog on the property.
  - (3) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.
  - (4) Landlord's written acknowledgment that a dangerous or potentially dangerous dog will be housed on property owned by landlord.
  - (5)

Completion of the county's responsible pet ownership class.

- (f) A dog classified as dangerous or potentially dangerous must be permanently sterilized within fourteen (14) calendar days following such classification by the division manager, or in the event of a timely appeal of such classification, within fourteen (14) calendar days following affirmation of the dangerous or potentially dangerous dog classification by the classification committee or within fourteen (14) calendar days of the classification as a dangerous or potentially dangerous dog being upheld by a county court.
- (g) No dog impounded pursuant to a dangerous or potentially dangerous dog investigation or classification shall be released to its owner or keeper until all requirements in subsections 5-32(e) and (f) are met.
- (h) The owner shall notify the animal services division within twenty-four (24) hours when a dog that has been classified as dangerous or potentially dangerous:
  - (1) Is loose or unconfined;
  - (2) Has bitten a human being or attacked another animal;
  - (3) Is sold, or given away, or dies; or
  - (4) Is moved to another address.

Prior to a dangerous or potentially dangerous dog being sold or given away, the owner shall provide the name, address and telephone number of the new owner to the animal services division. The new owner must comply with all of the requirements of this article and F.S. §§ 767.10 through 767.15, even if the dog is moved from one (1) local jurisdiction to another within the state. An animal control authority must be notified by the owner of a dog classified as dangerous or potentially dangerous that the dog is in its jurisdiction.

- (i) It is a violation for the owner of a dangerous dog to permit the dog to be outside an approved enclosure unless the dog is muzzled and restrained by a substantial chain or leash, not to exceed four (4) feet in length, and under the control of a competent adult. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal. When being transported, such dogs shall be safely and securely restrained within a vehicle.
- (j) This section does not apply to dogs used by law enforcement officials for law enforcement work.
- (k) It is a violation of this article for the owner of a potentially dangerous dog to allow the potentially dangerous dog to be off leash when not kept inside the owner's residence or within a securely fenced area. It is a violation for the owner of a potentially dangerous dog to allow the dog to be left alone and unsupervised outside the owner's residence. When being transported, such dogs shall be safely and securely restrained within a vehicle, using an

approved tether system.

- (l) Owners of previously declared dangerous or potentially dangerous dogs shall have sixty (60) calendar days from the adoption of this article to comply with all requirements for the registration of a dangerous or potentially dangerous dog as stated in subsection 5-21(d). Failure to comply within sixty (60) days will result in the issuance of a Category I violation, pursuant to section 5-50. In addition, the dangerous or potentially dangerous dog shall be impounded and held for ten (10) calendar days after the owner is given written notification under section 5-32, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-32. 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.
- (m) The victim of any dog bite or attack may appeal the decision of the division or the classification committee if the dog is not declared dangerous.
- (n) If any dog is not declared dangerous or potentially dangerous or if the classification determined by the division manager is not upheld in further appeal procedures, the dog will be released to the custody of the owner. In such event, the owner shall not be liable for costs of impoundment of the dog and the quarantine fees.
- (o) The division manager may issue notice of propensity letters to owners of dogs, subsequent to an initial bite or documented aggressive behavior toward a person or domestic animal.

(Code 1965, § 3-9; Ord. No. 87-9, § 9, 3-9-87; Ord. No. 91-8, § 8, 4-2-91; Ord. No. 95-32, § 5, 9-26-95; Ord. No. 2002-04, § 4, 6-4-02; Ord. No. 2005-07, § 5, 7-12-05)

Sec. 5-32.1. - Attack or bite by dangerous dog; penalties; confiscation; destruction.

- (a) If a dog that has previously been declared dangerous under this article attacks or bites a person or domestic animal without provocation, the owner of the dog, upon conviction, is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. In addition, the dangerous dog shall be confiscated by the animal services division, placed in quarantine, if necessary, for the proper length of time, or impounded and held for ten (10) calendar days after the owner is given written notification under section 5-32, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-32. 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.
- (b) Pursuant to F.S. § 767.13, if a dog that has been previously declared dangerous under this article aggressively attacks and causes severe injury to or death of any person or domestic

animal, the owner of the dog, upon conviction, 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 services division, placed in quarantine, if necessary, for the proper length of time or held for ten (10) calendar days after the owner is given written notification under section 5-32, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-32. The owner shall be responsible for payment of all boarding costs and such other fees as may be required to humanely and safely keep the dog during any appeal procedure.

- (c) Pursuant to F.S. § 767.13, if a dog that has not been declared dangerous under this article attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by the animal services division, placed in quarantine, if necessary, for the proper length of time or held for ten (10) calendar days after the owner has been given written notification under section 5-32, and thereafter shall be destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 5-32. The owner shall be responsible for payment of all boarding costs and any other fees as may be required to humanely and safely keep the dog during any appeal procedure. In addition 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.

(Ord. No. 2005-07, § 6, 7-12-05)

Sec. 5-33. - Animals at-large prohibited.

(a) *Prohibition of animals at-large.*

- (1) No domestic animal owner or person having charge, care, custody or control of any domestic animal shall permit, any domestic animal to run at large, upon any public property, or off the premises of the owner.
- (2) An officer finding a domestic animal at-large may issue a warning or a citation for such violation. If the owner cannot be identified and located with reasonable effort, such animal may be seized and impounded.
- (3) No domestic animal at-large shall be permitted to cause injury, or threat of injury, to any person, or cause property damage.
- (4) The owner or keeper of a female dog or cat in heat (estrus) shall confine such dog or cat so as to make it inaccessible to any male dog or cat except for controlled and intentional breeding purposes.

- (5) It shall be a violation of this article for the owner or keeper of a dog or cat to tie, chain or otherwise tether such animal in such a manner that it has access to public property or the property of another without the consent of the property owner.
  - (6) Any domestic animal transported in any open vehicle shall either be within a cage, crate or pen, which is well ventilated and secured within the body of the vehicle, or restrained by one (1) tether, affixed to the center of the vehicle and attached to the collar or harness of the animal to prevent the animal from escaping or causing injury to itself or any person. The tether shall be short enough to prevent the animal's head from reaching the sides or back of the vehicle. Nothing in this subsection 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.
- (b) *Seizure of at-large animals; harboring and finder-ownership.*
- (1) When a domestic animal is at-large a person may seize such animal in a humane manner if the owner of the animal is unknown to the person and the owner of the animal is not identified by any form of identification. Any person, who finds a stray domestic animal, where the owner is unknown, shall relinquish custody to the animal services division or file a found animal report with the animal services division within two (2) calendar days after finding the animal. If the person desires to maintain the seized animal as their own, he/she shall maintain such animal for the time set forth in subsection (2) hereinafter.
  - (2) Any person who keeps a found domestic animal for thirty (30) consecutive days, and no owner is found, shall be conclusively presumed to be the owner of such animal.

(Ord. No. 95-32, § 6, 9-26-95; Ord. No. 2005-07, § 7, 7-12-05)

**Editor's note**— Prior to its reinstatement by Ord. No. 95-32, section 5-33 had been repealed by § 9 of Ord. No. 91-8, adopted April 2, 1981. Prior to this repeal, section 5-28 pertained to seizure of animals and derived from Code 1965, § 3-10, and Ord. No. 87-9, § 10, adopted Mar. 9, 1987.

Sec. 5-34. - Impoundment of animals; compulsory sterilization.

- (a) The county may purchase, construct, lease, operate, and maintain county shelters to retain:
  - (1) Any animal captured, seized or picked up by the division pursuant to this article;
  - (2) Any animal delivered to the division;
  - (3) Any animal ordered impounded by any court;
  - (4) Any animal under investigation for classification as dangerous or potentially dangerous.
- (b) The division manager may retain the services of a licensed veterinarian or utilize the animal services division spay/neuter clinic veterinarian to spay or neuter any impounded fertile dog

or cat, or to treat any sick or injured animal retained in a county shelter. When the owner or keeper of such animal is identified, such owner or keeper shall be liable for payment of the veterinary expenses or reimbursement of the county's expenses in treating and caring for the animal. Animal services division staff may administer medication and veterinary care as prescribed by a veterinarian. The county, its employees and agents, shall not be liable for any act or omission in rendering such care.

- (c) No animal impounded pursuant to this article shall be released to its owner or keeper until:
  - (1) The owner of the impounded dog, cat, or ferret, which is not currently vaccinated against rabies, will be issued a citation for failure to obtain a rabies vaccination;
  - (2) The owner or keeper of an impounded animal pays all applicable fees due;
  - (3) The owner or keeper of an impounded animal pays any expenses incurred by the county for veterinary treatment.
- (d) An owned fertile dog or cat impounded by animal services may be spayed or neutered by the animal services division spay/neuter clinic, in accordance with the provision of this subsection and prior to the release of the dog or cat.
  - (1) An initial citation for Category II violations, as identified in section 5-50, may be waived by the division manager if, prior to release, spay or neuter procedures are completed.
  - (2) Upon second impoundment of an owned dog or cat, written notification of intent to sterilize the animal shall be given to the owner or keeper of this animal. The cost of the spay or neuter shall be charged to the owner prior to release of the animal to the owner.
  - (3) Any owner of an impounded animal subject to mandatory spay/neuter may petition in writing for a hearing to be conducted by the division manager or his designee. Such petition must be made by the owner within three (3) working days of the division's issuance of a notice of impoundment. The hearing must be held within four (4) working days of receipt of such petition. After the hearing, the division manager or designee shall require the animal to be spayed or neutered unless the division manager has determined that good cause exists for not requiring that the animal be spayed or neutered.
- (e) An initial citation for Category II violations, as identified in section 5-50, may be waived by the division manager, pending completion of either spay or neuter surgery of the animal, within seven (7) working days of the initial notice of violation.

(Code 1965, § 3-11; Ord. No. 87-9, § 11, 3-9-87; Ord. No. 91-8, § 10, 4-2-91; Ord. No. 95-32, § 7, 9-26-95; Ord. No. 2002-04, § 5, 6-4-02; Ord. No. 2005-07, § 8, 7-12-05)

#### Sec. 5-35. - Disposition of impounded animals.

- (a) The division manager may transfer ownership or custody to a humane agency, determine

suitability for adoption, or destroy in a humane manner any animal impounded pursuant to this article where:

- (1) An owner cannot be identified;
  - (2) An owner relinquishes ownership of the animal;
  - (3) An owner is identified, but cannot be notified;
  - (4) An owner is notified, but by his statements, actions, or failure to act, indicates an intent to abandon the animal; or
  - (5) An owner does not claim the animal within the applicable period of time specified in subsection (b) below.
  - (6) A county court or presiding legal authority adjudges an animal to constitute a nuisance under this article or any other law and orders seizure of an animal.
- (b) Upon compliance with the following provisions, the animal services division shall be deemed to have complied fully with due process of law, and the owner shall not be entitled to compensation for loss of the animal.
- (1) Any dog or cat not exhibiting any form of identification shall be held a minimum of three (3) working days, excluding day of impoundment, and then made available for adoption.
  - (2) A dog or cat shall be held a minimum of five (5) working days excluding day of impoundment.
  - (3) When a potential owner has been identified, animal services division staff shall either make a minimum of three (3) diared telephonic attempts or one (1) written notice by certified mail, return receipt requested, informing the owner of the impoundment of an animal. Notice by mail shall be completed prior to the end of the next working day, excluding Sundays and county holidays, following the impoundment. An animal whose alleged owner has been mailed a certified letter will be held for ten (10) working days, excluding day of impoundment, following the date the letter was mailed. Attempts to give an owner notice by physical contact, or veterinarian contact, shall qualify as attempted telephone contact.
  - (4) Notwithstanding the aforesaid impoundment periods, upon certification by a veterinarian, or, in the event that a veterinarian is not available for immediate diagnosis, then, an employee designated by the division manager, may humanely euthanize an animal to prevent needless pain and suffering.
- (c) Euthanasia shall be performed in accordance with F.S. § 828.058. An animal's body shall not be disposed of until death is confirmed by a qualified person. Animals shall be checked to make certain that vital signs have stopped or rigor mortis exists.
- (d) The animal services division shall participate in an adoption program and may cooperate with

breed rescue programs to promote responsible ownership of pets and goodwill in the community.

(Code 1965, § 3-12; Ord. No. 87-9, § 12, 3-9-87; Ord. No. 91-8, § 11, 4-2-91; Ord. No. 95-32, § 8, 9-26-95; Ord. No. 2005-07, § 9, 7-12-05)

**State Law reference**— Euthanasia of animals, F.S. §§ 828.055, 828.058.

Sec. 5-36. - Disposal of dead animals.

- (a) It is a violation of this article to deposit or leave a dead animal without the owner's consent on public property or on the private property of a person other than the owner of such animal.
- (b) When the division manager or an animal services officer discovers a dead animal on private property, the division shall provide written notice to the owner or keeper of such animal, ordering the owner or keeper to dispose of the remains within twenty-four (24) hours. If the owner or keeper of a dead animal cannot be identified or notified, the division shall dispose of the remains. If a notified owner or keeper fails to comply within twenty-four (24) hours after receipt of the written notice, the division shall cause the remains to be disposed of and shall bill the owner or keeper of the animal the applicable fee and issue a citation for violation of the provisions of this section.
- (c) When the division manager or an animal services officer discovers a dead animal on public property, and county-maintained roads, the division shall cause the remains to be disposed of and shall make a reasonable effort to identify and notify the owner of such animal. If the animal is wearing a current rabies tag or other means of identification, animal services division staff shall attempt notification of the owner by telephone or mail within twenty-four (24) hours. Information shall be maintained at the animal services division as to the date, time and location of pickup and a description of the animal to be available to owners seeking information as to missing animals.
- (d) Upon death of an animal for any reason other than rabies, the owner or keeper shall immediately dispose of the carcass of such animal by burning and/or burying at least three (3) feet below the surface of the ground.

(Code 1965, § 3-13; Ord. No. 87-9, § 13, 3-9-87; Ord. No. 91-8, § 12, 4-2-91; Ord. No. 95-32, § 9, 9-26-95; Ord. No. 2005-07, § 10, 7-12-05)

Sec. 5-37. - Rabies vaccination.

- (a) The owner or keeper of a dog, cat, or ferret four (4) months of age or older shall vaccinate such dog, cat, or ferret against rabies through a licensed veterinarian. Evidence of rabies

vaccination shall consist of a certificate signed by the licensed veterinarian administering the vaccination and identifying the owner and the address of the dog, cat, or ferret and containing such other information as required by state law.

- (b) A rabies vaccination is excused only if a dog, cat, or ferret is less than four (4) months of age, or if a licensed veterinarian certifies in writing that rabies vaccination would be injurious to the health of a dog, cat, or ferret. In the latter case, such dog, cat, or ferret shall be confined in an enclosed building or a kennel at all times until a licensed veterinarian can safely vaccinate the dog, cat, or ferret.
- (c) The county rabies control program shall be carried out pursuant to F.A.C. ch. 64D-3 and the following provisions:
  - (1) When a dog or cat has bitten or is believed to have bitten a human being or another animal, or is suspected of carrying rabies, the dog or cat shall be quarantined for rabies observation for a reasonable period of time, as determined by the division manager, but in no case less than ten (10) calendar days. The owner/keeper of such dog or cat shall relinquish possession of the dog or cat for the purpose of quarantine. Refusal to surrender any animal believed to have inflicted a bite on a person upon lawful demand shall be in violation of this article. At the discretion of the division manager, any such dog or cat without a current rabies vaccination may be kept in quarantine at the owner's expense in a county shelter or at an approved holding facility of a local veterinarian or an approved boarding kennel.
  - (2) The state department of health and rehabilitative services county public health unit director/administrator or the state health officer may make an exception and approve confinement of a dog or cat having a current rabies vaccination administered by a licensed veterinarian at the owner's home or at another acceptable location. If the division manager determines, at any time during the quarantine period, that the owner/keeper of the dog or cat has failed to sufficiently confine the dog or cat, the owner shall relinquish possession of the dog or cat to the animal services division. The dog or cat will then be confined in the custody of the animal services division or at an approved holding facility of a local veterinarian for the remainder of the quarantine period at the owner's expense.
  - (3) Dogs and cats or other animals under quarantine shall not be released or removed from the place of quarantine unless permission is obtained from the county health unit director or the state department of health and rehabilitative services county public health unit director/administrator or the state health officer.
  - (4) Bites of guinea pigs, hamsters, ferrets, lagomorphs (rabbits and hares), livestock, squirrels, gerbils, chipmunks, rats, mice and other rodents shall be evaluated on an individual basis at the discretion of the state department of health and rehabilitative services county public

health unit director for a determination as to the need for laboratory examination.

- (5) Any free-roaming wild mammal that has bitten or exposed a human to rabies shall be disposed of immediately in a manner that the head of the animal can be submitted to one (1) of the laboratories of the state department of health and rehabilitative services for examination for rabies. When a free-roaming wild mammal which is on a list of endangered animal species is involved, the Florida Fish and Wildlife Conservation Commission shall be notified and given the opportunity to obtain the specimen and other relevant information.
- (6) Any dog or cat with a current rabies vaccination that is bitten or exposed by a known rabid animal shall be revaccinated immediately by a licensed veterinarian and quarantined for ninety (90) calendar days. The state health director or his designee may permit such animal to be quarantined at home, the animal services division, or another approved facility. Such animal shall be on a leash when taken outdoors.
- (7) Any dog or cat without a current rabies vaccination that is bitten by or exposed to a known rabid animal shall be disposed of or, if the owner so desires, placed under rabies quarantine for six (6) months at the owner's expense in a place approved by the state department of health and rehabilitative services county public health unit director/administrator or the state health officer. Such animals shall be given a rabies vaccination upon entering quarantine and shall be revaccinated one (1) month prior to release from quarantine.
- (8) Any animal held under quarantine must be claimed by the owner within three (3) working days following the last day of quarantine unless prior arrangements have been made or the animal shall be considered abandoned and disposed of as the animal services division deems appropriate.
- (9) The owner of any dog or cat held under quarantine must provide proof of vaccination against rabies or have the dog or cat vaccinated against rabies before the dog or cat will be released from quarantine. The owner's failure to have the dog or cat vaccinated against rabies shall be a violation of this article.

(Code 1965, § 3-14; Ord. No. 87-9, § 14, 3-9-87; Ord. No. 91-8, § 13, 4-2-91; Ord. No. 95-32, § 10, 9-26-95; Ord. No. 2002-04, § 6, 6-4-02; Ord. No. 2005-07, § 11, 7-12-05)

#### Sec. 5-38. - Certificates and tags.

- (a) Rabies certificates and tags issued by licensed veterinarians and veterinary clinics will be recognized as appropriate identification for dogs, cats and ferrets in Orange County.
- (b) A certificate and tag issued for one (1) dog, cat, or ferret is not valid for any other dog, cat, and

ferret. No tag shall be valid after the expiration of the rabies vaccination regardless of the date of issuance.

- (c) All dogs, cats and ferrets in Orange County shall have displayed on its collar a current rabies vaccination tag, when not confined inside the owner's or keeper's home, except:
  - (1) When the dog, cat, or ferret is participating in an organized exhibition field trial, competition, or legal sport under the supervision of its owner or keeper, or is training for such events, or is undergoing grooming;
  - (2) When the dog, cat, or ferret is confined inside a licensed kennel or grooming facility;
  - (3) When a licensed veterinarian orders in writing that the collar and tag be removed from the dog, cat or ferret for health reasons.
- (d) The tag shall be the standard tag issued by the veterinarian or veterinary clinic administering the vaccination. Replacement of the tag will be in conjunction with the revaccination date recorded on the rabies vaccination certificate issued by the veterinarian.
- (e) Animal services shall issue rabies vaccination tags and certificates for dogs and cats adopted from animal services. Subsequent rabies vaccinations, tags, and certificates will be acquired from the veterinarian administering future inoculations.
- (f) A police dog, as defined in F.S. § 843.19, shall be exempt from wearing a license rabies tag while being used by a law enforcement agency.

(Code 1965, § 3-15; Ord. No. 87-9, § 15, 3-9-87; Ord. No. 91-8, § 14, 4-2-91; Ord. No. 95-32, § 11, 9-26-95; Ord. No. 2002-04, § 7, 6-4-02; Ord. No. 2005-07, § 12, 7-12-05)

#### Sec. 5-39. - Fees.

- (a) The board of county commissioners may, from time to time, by resolution, establish fees and charges applicable to any matter covered by this article.
- (b) All fees collected shall be deposited in the county's general revenue fund. All expenses of administering this article shall be paid from the general fund.

(Ord. No. 2002-04, § 8, 6-4-02; Ord. No. 2005-07, § 13, 7-12-05)

**Editor's note**— Ord. No. 2002-04, § 8, adopted June 4, 2002, repealed § 5-39(title), to read as herein set out. Prior to amendment, § 5-39(title), pertained to tag fees.

#### Sec. 5-40. - Commercial kennel and pet dealer registration.

It shall be unlawful for a commercial kennel or pet dealer within the county to fail to register said kennel or pet dealer with the animal services division.

- (a) Registration for commercial kennels and pet dealers shall be issued for each fiscal year beginning October 1 and ending September 30 upon a payment of the proper fee. A partial year registration fee of one-half (½) the annual rate established by the board of county commissioners may be charged for any commercial kennel business operation or pet dealer in its initial year of business when commencing its operation on or after April 1 of said initial year.

Noncommercial kennels shall be exempt from the registration requirements of this article; provided, it shall be unlawful for the owner or operator of any noncommercial kennel to allow said kennel to become a nuisance or to emit such offensive odors or noises as to disrupt the comfort, peace, quiet or repose of any person residing in the vicinity of said kennel.

- (b) Every person owning and operating a commercial kennel or pet dealer within the county shall properly feed and care for all animals in their custody. The premises of said kennel or pet dealer shall be periodically inspected during reasonable business hours by an animal services officer who shall issue a notice of violation if any kennel or pet dealer is found in violation of any requirement of this article. Said premises shall be reinspected within three (3) working days after issuance of said notice of violation. The failure to correct said violation after notice shall be unlawful and the animal services officer may take any or all of the following actions:
- (1) Seek a court order;
  - (2) Revoke the registration;
  - (3) File a complaint with the state attorney's office.
- (c) Every person owning and operating a commercial kennel or pet dealer within the county shall comply with the following sections:
- (1) *Housing facilities.* Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain, and to restrict the entrance of other animals.
  - (2) *Bedding and facilities.* Any bedding utilized shall be clean and dry. All animal rooms, cages, kennels, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept within.
  - (3) *Separation of animals by species.* Animals of different species may not be confined or displayed in the same cage. All animals, which are natural enemies, temperamentally unsuited, or otherwise incompatible, shall not be quartered together or so near each other as to cause injury, fear or torment.

- (4) *Ventilation and lighting.* All areas in which animals are confined shall have adequate illumination and ventilation. The area shall be illuminated during the daylight hours but not directly into cages.
- (d) Every person owning and operating a commercial kennel or pet dealer within the county shall comply with the following requirements for standard of care of the animals in their custody:
- (1) *Posting of contact person.* Whenever an animal is left unattended at a commercial kennel or pet dealer, the name and telephone number of the responsible person shall be posted in a conspicuous place at the front of the property, visible from outside the facility.
- (2) *Disease or illness.* Any animal, which exhibits symptoms of disease or illness, shall be separated to the greatest extent possible from other healthy animals. No animal which is known to have, or may reasonably be suspected of having, a disease contagious or communicable to humans, may be exposed to or offered for sale to the public.
- (3) *Drinking water.* Fresh water shall be available to all animals and replaced whenever necessary during each day.
- (4) *Feeding.* All animals requiring the daily intake of food shall be fed at least once every twenty-four-hour period. The type of food provided shall be appropriate for each particular species and shall be of sufficient nutrition for the health and well being of the species.
- (5) *Sanitation.* All areas of confinement, display and sales and storage areas shall be maintained in a healthful and sanitary condition.
- (6) *Treatment.* All animals exhibiting symptoms of illness or disease shall be treated by a licensed veterinarian.

(Ord. No. 91-8, § 16, 4-2-91; Ord. No. 95-32, § 13, 9-26-95; Ord. No. 2002-04, § 9, 6-4-02; Ord. No. 2005-07, § 14, 7-12-05)

Sec. 5-41. - Trapping; exposing poison.

- (a) The animal services division may set box (live-cage) traps only for animals which have allegedly bitten a person or another animal, for nuisance animals that pose a health risk or cause property damage or for the purposes of humane rescue in the interest of the animal itself, as determined by the division manager of the animal services division. A trap may not be set on weekends, county holidays, and during such hours when the animal services division staff is unavailable to retrieve or release a captured animal. Appropriate signage notifying neighbors that a trap is in use must be conspicuously posted at all times. A trap shall be checked a

minimum of once every eight (8) hours by an animal services officer or the citizen requesting the trap. The responsible person attending the trap shall immediately notify the animal services division when an animal is captured.

(b) No animal services division traps will be provided to the general public for the purpose of trapping animals except to assist animal services in trapping as provided in subsection (a).

(c) Trapping of animals by the public utilizing unauthorized private traps is prohibited.

(1) *Exceptions.*

a. Hunting of game birds and animals in compliance with state laws regulating such activities which shall be limited to rural areas only. Non-targeted animals shall be released immediately at the site of capture.

b. Nuisance wildlife by such persons holding current permits to engage in such activity, issued by the Florida Fish and Wildlife Conservation Commission, and who are registered with the animal services division. Such trapping must be in strict compliance with the provisions of the state permit. Non-targeted animals shall be released immediately at the site of capture.

(d) Any person who traps animals, without animal services division authority or who is not in compliance with the provisions of this article or not in strict compliance with Florida Fish and Wildlife Conservation Commission permits, will be in violation of this section. Animal services will confiscate any trap used in violation of this section.

(e) No person or entity shall leave or deposit any poisonous or injurious substance of any kind in any common street, alley, lane or thoroughfare or any yard or enclosure which would injure or kill an animal.

(1) *Exceptions:*

a. *Moles:* Except when contracting the services of a professional, licensed exterminator, only commercial mechanical devices intended for that purpose shall be used.

b. *Rats and mice:* Only products, substances or poisons which are completely enclosed in a tamper-resistant or tamper-proof bait station accessible only to rats and mice.

(Ord. No. 91-8, § 17, 4-2-91; Ord. No. 95-32, § 14, 9-26-95; Ord. No. 2005-07, § 15, 7-12-05)

#### Sec. 5-42. - Nuisance animals.

(a) It shall be a violation of this article for the owner or keeper of any domestic animal to permit an animal to constitute a nuisance by permitting or allowing such animal to engage in any of the following specifically prohibited behaviors:

(1) Habitual or repeated bothersome noises;

- (2) Chasing vehicles, livestock, domestic animals, humans or running at large;
  - (3) Acting in an aggressive manner;
  - (4) Damaging or destroying public or private property;
  - (5) Causing a serious annoyance so as to interfere with the reasonable use and enjoyment of property;
  - (6) Being an unwelcome guest on private or public property;
  - (7) Emitting offensive odors, either from the animal or upon property due to the animal.
- (b) Failure by an owner or keeper to observe any of the following mandatory duties shall constitute a violation of this article:
- (1) The owner or keeper of every domestic animal shall be held responsible for every behavior of such domestic animal under the provisions of this article;
  - (2) The owner or keeper of every animal shall be responsible for the removal of any excreta deposited by an animal on public ways, recreation areas, or private property;
  - (3) The owner or keeper of an animal shall maintain that animal and the property upon which it is located so as to prevent offensive odors which disturb the comfort, peace or repose of any person who resides in the vicinity.
- (c) Any nuisance complaint may be investigated by animal services. However, before a citation may be issued, the animal services officer must have personal knowledge of the nuisance or at least two (2) affidavits from different parties residing in close proximity to the alleged nuisance must be received. One (1) affidavit may be sufficient to warrant investigation and issue a citation where there is only one (1) party in close proximity to the alleged nuisance.

(Ord. No. 91-8, § 18, 4-2-91; Ord. No. 95-32, § 15, 9-26-95; Ord. No. 2005-07, § 16, 7-12-05)

Sec. 5-43. - Neglect of animals prohibited.

- (a) Neglect of animals is a violation of this article and occurs if the owner or keeper of an animal commits any one (1) of the following prohibited acts or omissions:
- (1) Fails to provide food, water, shelter, adequate ventilation, protection from the elements, or other care generally considered to be normal, usual and accepted for an animal's health and well-being;
  - (2) Confines any animal without providing wholesome exercise;
  - (3) Abandons any animal and neglects the responsibility to provide for the animal;
  - (4) Leaves a dog, cat, or other animal unattended in a parked vehicle with inadequate or no ventilation.
- (b) Any person who unnecessarily overloads, overdrives, torments or deprives of necessary

sustenance or shelter, or carries in or upon any vehicle or otherwise, any animal in a neglectful or contemptuous manner, is in violation of this article.

- (c) The operator of a motor vehicle who strikes a domestic animal shall stop at once, render such assistance as may be possible, and immediately report such injury or death to the animal's owner if such can be found. In the event the owner cannot be found, the operator shall at once report the incident to the animal services division or the appropriate local law enforcement agency. Behavior in violation of this subsection constitutes "neglect" as defined hereinabove.

(Ord. No. 91-8, § 19, 4-2-91; Ord. No. 95-32, § 16, 9-26-95; Ord. No. 2005-07, § 17, 7-12-05)

#### Sec. 5-44. - Spay/neuter program.

- (a) A low-cost public spay/neuter clinic, at which any Orange County resident may have dogs and cats sterilized by a licensed veterinarian, has been established and is located at the animal services facility.
- (b) Rabies vaccinations may be provided, for a fee, to those animals being sterilized, pursuant to section 5-37. Animals presented at the clinic for sterilization which are unvaccinated against rabies shall be inoculated at that time. Future rabies vaccinations must be procured from private veterinary clinics.
- (c) Fees for impoundment shall be forgiven to the amount paid for the spay/neuter clinic fee paid for animals impounded for the first time.
- (d) County residents who meet the one hundred (100) percent federal poverty level standards, or receive Medicaid benefits, may have their animals spayed or neutered without charge.
- (e) Residents seeking service from the clinic shall sign a statement holding the clinic harmless and shall retrieve their animal on the date specified by the clinic. Failure to do so shall result in an additional charge for board.

(Ord. No. 91-8, § 20, 4-2-91; Ord. No. 95-32, § 17, 9-26-95; Ord. No. 2002-04, § 10, 6-4-02; Ord. No. 2005-07, § 18, 7-12-05)

#### Sec. 5-45. - Animal services division programs.

- (a) The animal services division will conduct an ongoing pet education program for adults and children as to the responsibilities of pet ownership, the need to sterilize animals, the services available from the animal services division and the laws relating to animals in the county.
- (b) The animal services division will conduct an ongoing adoption program at the animal services facility. Fees and procedures will be established by resolution.

(Ord. No. 91-8, § 21, 4-2-91; Ord. No. 95-32, § 18, 9-26-95; Ord. No. 2005-07, § 19, 7-12-05)

Sec. 5-46. - Cruelty to animals.

- (a) Pursuant to F.S. § 828.12, as may be amended, cruelty to animals is a criminal offense. The division shall investigate reported incidents involving cruelty to animals or support investigations by other enforcement agencies when so requested and refer cases where probable cause exists to the state attorney's office for criminal prosecution.
- (b) The following acts or omissions shall constitute cruelty to animals under this article:
  - (1) Unnecessarily overloading, overdriving, tormenting, depriving of necessary sustenance, shelter, or medical care, or unnecessarily 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.
  - (2) Intentionally committing an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done.
  - (3) Poisoning a dog, cat, ferret, or other pet animal.
- (c) Pursuant to F.S. § 828.13, as may be amended, confining an animal without sufficient food, water or exercise, or abandonment of an animal is a criminal offense. The division shall investigate reported incidents involving such action or support investigations by other law enforcement agencies when so requested and refer cases where probable cause exists to the state attorney's office for criminal prosecution.
- (d) The following acts or omissions shall constitute improper confinement or abandonment:
  - (1) Impounding or confining an animal without a sufficient quantity of good and wholesome food and water.
  - (2) Keeping an animal in any enclosure without wholesome exercise and change of air.
  - (3) Abandoning to die any animal that is maimed, sick, infirm, or diseased.
  - (4) Abandoning an animal to suffer injury, malnutrition or illness without veterinary care.
- (e) A veterinarian rendering services is exempt from the provisions of this section.
- (f) Pursuant to F.S. § 828.122, as may be amended, fighting or baiting animals is a criminal offense. The division shall report incidents involving such action to the appropriate law enforcement agency and support investigations when so requested and refer cases where probable cause exists to the state attorney's office for criminal prosecution.
- (g) The following acts or omissions shall constitute improper fighting or baiting under this article:
  - (1) Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;

- (2) Owning, possessing, or selling equipment for use in animal fighting or baiting;
  - (3) Owning, leasing, managing, operating, or having control of any property kept or used for animal fighting or baiting;
  - (4) Promoting, staging, advertising, or charging any admission fee to a fight or baiting between two (2) or more animals;
  - (5) Performing any service or act to facilitate animal fighting or baiting, including, but not limited to, providing security, refereeing, or handling or transporting animals or being a stakeholder of any money wagered on animal fighting or baiting;
  - (6) Betting or wagering any money or other valuable consideration on the fighting or baiting of animals;
  - (7) Attending the fighting or baiting of animals.
- (h) These provisions shall not apply to any person:
- (1) Simulating a fight for the purpose of using the simulated fight as part of a motion picture that will be used on television or in a motion picture.
  - (2) Using animals to pursue or take wildlife or to participate in any hunting regulated or subject to being regulated by the rules and regulations of the Florida Fish and Wildlife Conservation Commission.
  - (3) Using animals to work livestock for agricultural purposes.
  - (4) Simulating bloodless bullfighting; or
  - (5) Using animals to hunt wild hogs or retrieve domestic hogs.
- (i) Nothing in this section shall be construed to prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

(Ord. No. 91-8, § 22, 4-2-91; Ord. No. 95-32, § 19, 9-26-95; Ord. No. 2005-07, § 20, 7-12-05)

Sec. 5-47. - Animal services trust fund.

- (a) There is hereby created a county animal services trust fund account for the purpose of accepting contributions and disbursing funds to animal services for the care and treatment of animals.
- (b) The animal services trust fund account shall be self-perpetuating year-to-year unless specifically terminated by the board of county commissioners.
- (c) Contributions received from public donors, private donors and the courts shall be deposited in the animal services trust fund account and shall at all times be kept separate and apart from the general fund. Such funds shall be expended, utilized and disbursed for the use and

purpose of providing for the welfare of animals within the county.

- (d) Such gifts, grants, awards and surcharges may be accepted on behalf of the county by the county or such other person or persons as may be designated by resolution of the board of county commissioners and shall be delivered to the finance department, which shall cause the same to be deposited to the animal services trust fund account.
- (e) Funds deposited or credited to the animal services trust fund account and not expended by the close of any fiscal year shall be carried forward to the next succeeding fiscal year.
- (f) Any gifts, grants, awards and surcharges received subject to a condition shall be expended strictly in accordance with such condition.
- (g) Gifts, grants, awards and surcharges not immediately used may be invested and reinvested to earn interest in such investments and securities as may be permitted by law.
- (h) Recommendations to the county for expenditure and disbursement of funds shall be made by the animal services advisory board which, with the permission of the county administrator, may initiate and request funds from the public for a specific, approved project to enhance the welfare of animals in the county.
- (i) No trust fund moneys shall be disbursed from the animal services trust fund account unless such expenditures have been authorized.
- (j) The books and records of the animal services trust fund account shall at all times be open to public inspection and shall be subject to county and state audit as required by law.

(Ord. No. 91-8, § 23, 4-2-91; Ord. No. 95-32, § 20, 9-26-95)

#### Sec. 5-48. - Animal services advisory board.

By resolution, the board of county commissioners will establish an animal services advisory board to assist and advise it in carrying out an effective and comprehensive animal services program.

(Ord. No. 91-8, § 24, 4-2-91)

#### Sec. 5-49. - Authority to accept negotiable paper (checks).

Checks may be accepted for payment for fees collected by animal services when presented in person or by mail with the following identification information written on the check: full name, residence address, home phone number, business phone number, place of employment, sex, date of birth, height and race of the person presenting the check.

(Ord. No. 91-8, § 24, 4-2-91)

#### Sec. 5-50. - Violations; construction of article.

- (a) It is a Category I violation of this article for any person to:
- (1) Refuse to surrender an animal upon lawful demand by the division manager or designee, an animal services officer, or to an employee of the state department of health and rehabilitative services county public health unit.
  - (2) Fail to comply with the provisions or requirements of any written notification of classification for a dangerous dog or a potentially dangerous dog.
  - (3) Fail to notify the animal services division that a dangerous or potentially dangerous dog has been brought into the county.
  - (4) Fail to control a previously declared dangerous dog or potentially dangerous dog, resulting in an unprovoked attack or bite.
  - (5) Fail to control an animal, resulting in severe injury to a human being or another animal.
  - (6) Fail to properly use a restraining device as defined in this article.
  - (7) Fail to quarantine an animal (i) which has bitten or is believed to have bitten a human being or another animal, or (ii) which is suspected of carrying rabies.
  - (8) Treat any animal in a neglectful manner as neglect is defined in this article.
  - (9) Abandon any animal as abandon is defined in this article.
  - (10) Fail to control an animal, resulting in an animal biting a human being unless such animal is reacting to a person unlawfully on property or protecting its owner or keeper from an unjustified attack or assault.
  - (11) Fail to confine a female dog or cat in heat (estrus) as required by this article.
  - (12) Sell, purchase or obtain a dog or cat for the purpose of human or animal consumption or to permit or engage in such consumption.
  - (13) Fail to trap by humane standards, including allowing an animal to remain within a trap for a period of time which is detrimental to the animal.
  - (14) Transport an animal in any open truck unless restrained by an appropriate truck tether system that is attached to the collar or harness of the animal, or such animal is placed in a well-ventilated cage or crate.
- (b) It is a Category II violation of this article for a person, an owner or keeper of any domestic animal to:
- (1) Fail to cooperate, refuse to provide information, or interfere with an animal services representative during the performance of their duties pursuant to this article.
  - (2)

Entice or lure an animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease an animal which is held or properly confined by its owner or keeper.

- (3) Permit an animal to engage in habitual or repeated bothersome noises.
  - (4) Permit an animal to chase vehicles, livestock, domestic animals, humans or be at large.
  - (5) Permit an animal to act in an aggressive manner.
  - (6) Permit an animal to damage or destroy public or private property.
  - (7) Permit an animal to interfere with the reasonable use and enjoyment of property.
  - (8) Permit an animal to be an unwelcome guest on private property.
  - (9) Fail to remove excreta from animal owner's property, resulting in offensive odors.
  - (10) Fail to complete responsible pet ownership class.
  - (11) Fail to comply with the provisions or requirements for commercial kennel or pet dealer registration, pursuant to this article.
- (c) It is a Category III violation of this article for the owner or keeper of any domestic animal to:
- (1) Possess or use a stolen, invalid, counterfeit or forged certificate, tag, or other document required by or issued pursuant to this article.
  - (2) Refuse or fail to have a current rabies vaccination for a dog, cat, or ferret as prescribed by this article.
  - (3) Fail to attach and display the required tag to a dog, cat, or ferret's collar when not confined inside the owner's residence.
  - (4) Fail to dispose of the remains of the animal within twenty-four (24) hours of the known time of death or discovery of death of such animal.
  - (5) Deposit or leave a dead animal on public property or the private property of another person without the owner's consent.
  - (6) Trap without obtaining permission to trap from the animal services division.
  - (7) Fail to remove any excreta deposited upon public property or another person's private property by any animal within the care, custody, ownership, or control of such person.
  - (8) Leave or deposit in any common street, lane or thoroughfare or any yard or enclosure, any poisonous or injurious substance which would injure or kill an animal.
  - (9) Crop a dog's ears or crop a dog's tail, except through the services of a licensed veterinarian.
  - (10) Sell or purchase for feed purposes, or to feed, any animal except vermin to constrictor snakes.
  - (11) Dye or color artificially any animal or fowl, including but not limited to, rabbits, baby

chickens and ducklings.

- (12) Sell, offer for sale or give away for purposes of premiums, pets or toys, any baby chicken, duckling, or other fowl under four (4) weeks of age or rabbit under two (2) months of age.
- (13) Kill, attempt to kill, attempt to capture, molest, maim, injure, sell or offer for sale any wild bird or to mutilate, destroy or take possession of eggs of wild birds within the county. This prohibition shall not apply to lawful hunting of game birds in rural areas.

(d) Any state statute, rule or regulation, present or future, shall prevail over any conflicting or ambiguous provision in this article to the extent of such conflict or ambiguity.

(Code 1965, § 3-17; Ord. No. 87-9, § 17, 3-9-87; Ord. No. 91-8, § 26, 4-2-91; Ord. No. 95-32, § 21, 9-26-95; Ord. No. 2002-04, § 11, 6-4-02; Ord. No. 2005-07, § 21, 7-12-05)

#### Sec. 5-51. - Violation procedures.

- (a) *Citation issuance.* An officer who has probable cause to believe that a person has committed an act in violation of this article may issue a citation to the person.
- (b) *Civil penalty.* If the person elects not to contest the citation, he/she shall pay the applicable civil penalty to the clerk of the county court within fourteen (14) calendar days after issuance of the citation.
- (c) *Hearing.* If the person elects to contest the citation, he/she shall appear at the office of the clerk of the county court on the date assigned on the citation, by the issuing officer, for an arraignment hearing by a county court judge.
- (d) *Judgment.* If the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he/she 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.
- (e) *Responsible pet owner education class.* A citation may be waived by the animal services division manager or designee for any Category III violation, pending timely completion of four (4) hours of responsible pet owner education classes, the content of which shall be established by resolution, if the individual cited has not had any prior citations issued by Orange County Animal Services.

It is mandatory for any individual who receives a citation and does not contest the citation and pays the applicable civil penalties, or who is found guilty in a hearing by a county court judge, for the first Category I or second Category II violation to attend four (4) hours of responsible pet owner education classes within sixty (60) calendar days of the resolution of the citation.

Failure to complete the required hours of responsible pet owner education classes shall constitute a

violation of this article of chapter 5, Orange County Code, and shall cause an additional citation to be issued. Such a violation will require either payment of the amount stated on the citation or appearance in court.

(Code 1965, § 3-18; Ord. No. 87-9, § 18, 3-9-87; Ord. No. 91-8, § 27, 4-2-91; Ord. No. 2005-07, § 22, 7-12-05)

Sec. 5-52. - Penalties.

- (a) A violation of this article may be handled as a civil infraction.
- (b) The maximum penalty for a civil infraction shall not exceed five hundred dollars (\$500.00).
- (c) A five-dollar surcharge shall be imposed upon each civil penalty for a violation of this article in accordance with F.S. § 828.27.
- (d) Nothing in this section shall be construed as prohibiting the county from pursuing alternate legal remedies, including seeking to enjoin an existing or ongoing violation of this article, referring the matter to the Orange County Code Enforcement Board in an appropriate case, or pursuing criminal prosecution pursuant to F.S. § 125.69(1).

(Code 1965, § 3-19; Ord. No. 87-9, § 19, 3-9-87; Ord. No. 91-8, § 28, 4-2-91; Ord. No. 95-32, § 22, 9-26-95; Ord. No. 2005-07, § 23, 7-12-05)