

ORDINANCE NO. 2018-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2004-58, AS AMENDED, AND AS FURTHER AMENDED BY 2017-12, KNOWN AS THE ANIMAL CONTROL ORDINANCE; SPECIFICALLY AMENDING SECTION 6-40, DEFINITIONS; AND SECTION 6-54, ANIMAL CARE AND ANIMAL CRUELTY; SECTION 6-56, CONFINEMENT OF LIVESTOCK; AND SECTION 6-63 CIVIL CITATIONS AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Nassau County, Florida adopted Ordinance No. 2017-12 on May 22, 2017 which established guidelines for unsupervised, unattended tethering of dogs; and

WHEREAS, the Director of the Nassau County Animal Services Department has recommended that the Board of County Commissioners of Nassau County, Florida, consider amendments to its Animal Control Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida, that Ordinance No. 2004-58, as amended, shall be further amended as follows:

SECTION 6-40. DEFINITIONS

Abandon: means to forsake or neglect or refuse to provide or perform the legal obligations for care and support of an Animal by its Owner, harbinger or agent.

Adequate Food: means food that is of sufficient quantity and nutritive value to maintain each Animal in good health. The Owner shall ensure that Adequate Food is accessible to each Animal, and is provided in a clean and sanitary manner, is placed so as to minimize contamination by excrement and pests, and is provided at suitable intervals for the species, and condition of the Animal, which is at least once daily except as prescribed by a veterinarian.

Adequate Water: means clean, fresh, potable water of a drinkable temperature. Adequate Water shall be provided in a suitable manner, in sufficient volume, and at suitable intervals, at all times to maintain normal hydration for the age, species, condition, size and type of each Animal, except as prescribed by a

veterinarian, and that the water is provided in a clean, durable receptacle, which is accessible to each Animal and is placed so as to prevent contamination of the water by excrement and pests.

Adequate Shelter: means a shelter that is suitable for the species, age, condition, size, and type of each Animal, and provides Adequate Space for each Animal, is safe and protects each Animal from injury, weather elements (including severe weather), adverse effects of heat or cold, physical suffering, and impairment of health. The Owner shall ensure that the shelter is properly cleaned, enables each Animal to be clean and dry, except when detrimental to the species, and for dogs and cats provides a solid surface and resting platform, pad, floor, mat or similar device that is large enough for the dog or cat to lie on in a normal manner and can be maintained in a sanitary manner. Examples of inadequate shelter include, but are not limited to, lean-tos, metal drums, wire or airline carrier crates, cardboard boxes, abandoned vehicles, or material that does not provide sufficient protection from the elements. The area shall be free of any accumulated waste or external parasites, so that the Animal shall be free to walk or lay down without coming into contact with any such waste or parasites. Livestock are exempt from shelter requirements.

Adequate Space: means a space that allows an Animal or Livestock to easily sit, stand, lie down, turnabout and make other normal body movements in a comfortable position for an Animal or Livestock.

Animal: Shall be held to include every living dumb creature, which includes Livestock. Every non-human species of animal, both domestic and wild.

Livestock: Cattle, sheep, swine, horses, mules, goats, ostriches, rheas, emus, and any other domestic Animal that can or may be used in the preparation of animal products. Livestock does not include poultry and aquatic species. Horses, asses, mules, cattle, swine, sheep, goats and other grazing animals.

Responsible Person: means a person who cares for, looks after, and is responsible for property and Animals in the absence of their Owner. Such person may be found to have taken on the responsibility pursuant to direct agreement with the Owner, or by imputation through their actions in providing Adequate Food, water, shelter, and otherwise caring for the subject Animals.

SECTION 6-54 ANIMAL CARE AND ANIMAL CRUELTY.

(A) Each Owner shall provide his/her Animals or Livestock with Adequate Food, water, care and treatment to include Adequate Shelter, sufficient wholesome and nutritious food, water in sufficient quantities, proper air maintained at a temperature within the Animal's acclimation/thermoneutral zone (forty five (45) to eighty five (85) degrees Fahrenheit) as defined in the IAW Title 9 Code of Federal Regulations, shelter space that is three-sided with a roof and a floor and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(B) It is unlawful for any person to subject any Animal to Animal Cruelty. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an Animal or Livestock, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between Animals or Livestock or between Animals or Livestock and humans.

(C) No Owner of an Animal shall abandon such Animal.

(D) No person shall crop a dog's ears, dock a dog's tail, or declaw ~~dewelaw~~ a cat except a licensed veterinarian.

(E) Any violation of Section 828.12, Florida Statutes.

(F) Any violation of Section 828.13, Florida Statutes.

(~~GE~~) Any person who, as the operator of a motor vehicle, strikes a domestic Animal shall stop at once and render such assistance as may be possible without risking personal safety and shall immediately report such injury or death to the Animal's Owner; in the event the Owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to Animal Control.

(~~HF~~) No person shall expose any known poisonous substance, whether mixed with food or not, with the intention to harm any Animal excluding Vermin.

(~~IG~~) The unsupervised, unattended outdoor tethering of a dog or cat is prohibited except as provided herein:

(1) The Owner or Responsible Person must be outside with the dog or cat. The dog or cat must be in visible range of the Owner or responsible party. ~~There is authorized the following narrow exception to this condition: The dog owner or responsible person may leave a dog tethered outdoors on the property for a reasonable period not exceeding twelve (12) hours within a twenty-four (24) hour period. A dog may never be left tethered and unattended on vacant or abandoned property.~~

(2) The tether must be attached to the dog or cat animal by a properly applied, buckle-type nylon or leather collar, or halter or harness, with a swivel hook, and configured so as to protect the Animal from injury and death and prevent entanglement with other objects and/or Animals. Welded metal chain link or logging chains and vehicle tow chains may not be used to tether an Animal.

(3) The tether shall not be attached to a stationary object or trolley at a point or location that would allow the Animal to extend the tether over a fence or other object or edge in such manner that could result in the strangulation of or injury to the Animal.

(4) The foregoing provisions regarding tethering do not apply to dogs or cats participating in or attending an organized show, field trials, or sanctioned events, a lawful animal event, veterinarian treatment, grooming, training, or law enforcement.

(5) The Animal, while restrained by tether, is able to access shelter ~~with sufficient floor, three walls, and roof~~ to protect the Animal from the weather, extreme temperatures and direct sunlight; and is able to access Adequate Water ~~sufficient water~~ and Adequate Food ~~sufficient food~~.

(6) A tethered dog or cat must be at least six (6) months in age and free of illness and injury.

(7) The provisions of subsection (1) above, do not apply to dogs that are kept or used for a bona fide farm operation on lands classified as Agricultural pursuant to F.S. § 193.461 [cf. sections 163.3162(3)(a), and F.S. § 823.14(6); see, definitions of "farm," "farm operation," and "farm product" at F.S. § 823.14(3)(a), (b), and (c)].

(8) Multiple dogs must be tethered separately. Dogs may not share running lines or be near enough to each other that they may become entangled.

(9) Tethering regulations only apply to dogs and/or cats.

(JH) 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. It shall be considered causing, procuring, and/or inflicting cruelty, if the following occurs: Carrying any Animal in or upon any vehicle in an inhumane way so as not to provide for the protection, safety and comfort of the Animal being carried in conformance with Federal, State and County requirements including, but not limited to, an Animal which is enclosed in a vehicle and showing signs of hyperthermia, hypothermia (body temperature of one hundred five (105) degrees) and carrying an Animal in the back of an open truck or other open vehicle without being safely tethered to avoid injury and without protecting the Animal from the weather.

(KI) It shall be unlawful for the Owner of an Animal to allow the Animal, to bark, meow, whine, howl, or to make other sounds common to its species, persistently or continuously for a period of thirty (30) minutes or longer when such Animal is not contained within an enclosure sufficient to baffle loud noises and render them reasonably unobjectionable as evidenced by signed affidavits, provided by Animal Control, by not less than two (2) separate neighboring residences or audio/visual recording.

(1) Hunting dogs, while under their Owner's command and engaged in legal hunting activities or training procedures, shall be exempt from this section.

(2) Guardian dogs used for predator protection on farms defined in Section 823.14(3)(a), Florida Statutes, shall be exempt from this section.

SECTION 6-56 CONFINEMENT OF LIVESTOCK.

(a) *Running at Large Prohibited—Responsibility of Owner.*

(1) It shall be unlawful for Livestock to run or roam at large within the county.

(2) Every person owning or having the custody and control of Livestock is prohibited from permitting and is hereby required to prevent them from running or roaming at large within the county.

(b) *Running at Large Prohibited—Impoundment Fees.*

- (1) It ~~may shall~~ be the duty of the Animal Control Officer to impound any Livestock found at large within the county. The Animal Control Officer may make every effort to attempt notification of the Owner and may work with the Owner as to an alternate remedy other than impoundment.
- (2) Compensation to Animal Control for the impounding of Livestock shall be as follows:
 - a. For impounding each Animal, the sum of one hundred dollars (\$100.00) and mileage incurred, at the rate of twenty-nine cents (\$0.29) per mile and any other associated costs incurred.
 - b. For serving any notice and making return thereon, the sum of sixty-five dollars and thirty-eight cents (\$65.38) and mileage incurred, at the rate of twenty-nine cents (\$0.29) cents per mile.
 - c. For feed of impounded Animals, the sum of eighteen dollars and fifty cents (\$18.50) per day per Animal plus for the care of impounded Animals the sum of seven dollars (\$7.00) per day for the first three (3) days, and five dollars (\$5.00) for each subsequent day per Animal.
 - d. For advertising or posting notices of sale of impounded Animals, the same as provided by law for advertising property for sale under process.
 - e. For sale or other dispositions of impounded Animals, the sum of two hundred fifty dollars (\$250.00).
 - f. For recording of sale of impounded Animals, the sum of ten dollars (\$10.00) for the first page and eight dollars and fifty cents (\$8.50) for each page thereafter.

(c) *Notice of Impounding—Unknown Owner.*

- (1) Within twenty-four (24) hours of impoundment, Animal Control ~~may shall~~ notify the Owner via phone and may post the notice of impoundment on the Owner's residence, structure or fence and may also notify the Owner by certified mail, return receipt.
- (2) In case the Owner or person in charge of said Livestock be unknown to the impounder, then the notice to the Owner, his agent, or person in charge, may be omitted, provided a notice, addressed to "all whom it may concern" containing a description of the Animal impounded, and notifying all persons interested in

the Animal to redeem the Animal within three (3) days from and after the posting of the notice, shall be posted, on the county's website, all courthouse locations, the Yulee County Building and at Animal Control.

(d) *Failure of Owner to Redeem; Notice and Sale.*

- (1) Unless the impounded Animal is redeemed within three (3) days from notice to the Owner, his agent, or the person in charge of the Animal, or within three (3) days from the mailing or the posting of the notice, by paying to the impounder, or agent, all impoundment costs, the Animal Control Officer shall give notice that he/she will sell the impounded Animal at public auction for cash to the highest bidder at a given place, day, and time. The notice shall give the number and kind of Animals to be sold, together with the name of the Owner, if known.
- (2) That sale shall be held not less than five (5) nor more than ten (10) days from and after the publication or the posting of notice, as provided in paragraph (1) above. The notice may be served, either by publishing it one time in a newspaper of general circulation published in Nassau County, Florida, or by posting it at three (3) conspicuous places in the county, one of which shall be at all the courthouse doors. The Animal Control Officer at the place, day and time mentioned in the notice, shall sell the Animal at public auction for cash, unless redeemed before the sale. Upon payment of the purchase price at the sale, the Animal Control Officer will deliver to the purchaser a bill of sale for the Animal, which fully vests title to the Animal.

(e) *Disposition of Unredeemed and Unsold Livestock.* If there are no bidders for the Animal at the auction, the caretaker has the option to take ownership of the Animal in return for having provided feed and care.

(f) *Disposition of Proceeds of Sale—Payment of Deficiency.*

- (1) Any proceeds from the auction shall go to Animal Control to be disbursed for all fees and costs to the appropriate party.
- (2) If the amount realized from the auction is not sufficient to pay all fees and costs, the deficit shall be paid by the county from its fine and forfeiture fund.

(g) *Right to Redeem.* The Owner of the Animal shall have the right, at any time before the sale, to redeem the Animal, by paying all impounding fees, keeping charges, advertising and other costs incurred.

- (h) *Personal Liability for Damages; Lien.* The Owner or person having the care, custody and control of any Livestock at large within the county boundaries shall be personally liable to any and all persons damaged in person or property by the Livestock, said damage to be recovered in the Court of Nassau County, Florida, having jurisdiction, and the person suffering the damage shall have a lien upon the Animal subject, however, to all impounding costs and charges, to secure the payment of his damages.
- (i) *Penalty.* The Owner, or person having the care, custody and control of, any Animal who permits the Animal to run at large within the county or who shall release the Animal after being impounded, shall be guilty of a misdemeanor, and shall be punished as is provided for misdemeanors under the general laws of the state.

SECTION 6-63 CIVIL CITATIONS AND PENALTIES

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.

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 Department 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.

After issuing the citation, the issuing officer shall deposit the original and one (1) copy of the citation with the County Court in and for Nassau County.

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.

Unless cited for a violation for which court appearance is mandatory, a person cited for a civil infraction shall, within ten (10) 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 officer of the clerk of the County Court to appeal the citation.

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 sixty (60) days from the date of execution of the final judgment.

Persons cited for the following must appear in County Court:

- (1) Violators of this section, resulting in the unprovoked biting, attacking or wounding of a person or domestic Animal;
- (2) Violations of this section, resulting in the destruction or loss of personal property;
- (3) Second or subsequent violations of ~~the animal cruelty or neglect provisions of~~ Section 6-54 of this article.
- (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 a 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 sixty (60) days from the date of execution of final judgment.

Per F.S. § 828.27, a violation of any provision of this article by any person will be considered a civil infraction with a maximum civil penalty not to exceed five hundred dollars (\$500.00).

Whenever a provision of this article 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 separate resolution of the board of county commissioners. Unless otherwise specifically provided in this article, 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.

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 separate resolution of the board of county commissioners.

A civil penalty of less than the maximum civil penalty may be issued if the person who has committed the civil infraction does not contest the citation.

Any person who willfully refuses to sign and accept a citation issued by an officer shall be in violation of F.S. § 828.27(5) and this article and is guilty of a misdemeanor of the second degree punishable as provided in F.S. § 775.082 or F.S. § 775.083.

A five dollar (\$5.00) surcharge shall be charged and collected upon each civil fine imposed for each violation of this section, 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 the costs associated with training for Animal Control Officers as required by state law.

CONFLICTING ORDINANCES

All other ordinances of the County of Nassau that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

SEVERABILITY CLAUSE

Should any section, clause or provision of this ordinance, or any amendment hereto, be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

EFFECTIVE DATE

This ordinance shall become effective upon its being filed in the Office of the Department of State.

DULY ADOPTED this _____ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA**

PAT EDWARDS
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form by the Nassau County Attorney:

MICHAEL S. MULLIN