ORDINANCE NO. 05-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 4, ARTICLE II OF THE LEON COUNTY CODE OF LAWS ENTITLED "ANIMAL CONTROL"; AMENDING SECTION 4-26, "DEFINITIONS"; AMENDING SECTION 4-29, "ENFORCEMENT GENERALLY; PENALTIES"; AMENDING SECTION 4-33, "RIGHT OF ENTRY"; AMENDING SECTION 4-35, "RUNNING AT LARGE"; AMENDING SECTION 4-36, "PUBLIC NUISANCE PROHIBITED"; AMENDING SECTION 4-37, "HUMANE CARE REQUIRED"; AMENDING SECTION 4-38, "ANIMALS IN MOTOR VEHICLES"; AMENDING SECTION 4-41, "PROCEDURE UPON CITATION"; AMENDING SECTION 4-63, "REDEMPTION"; AMENDING SECTION 4-76, "RABIES VACCINATION"; AMENDING SECTION 4-77, "ANIMAL BITES"; AMENDING SECTION 4-91 "DISPOSITION GENERALLY"; AMENDING SECTION 4-93, "PETITION FOR CLASSIFICATION-GENERALLY"; AMENDING SECTION 4-94, "OWNER'S RIGHT TO CONTEST"; AMENDING SECTION 4-96, "IMPOUNDMENT"; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION I. Chapter 4, Article II of the Code of Laws of Leon County, Florida, is hereby amended to read as follows:

ARTICLE II. ANIMAL CONTROL

DIVISION 1. GENERALLY

Section 4-26. 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:

Aggressive animal shall mean any animal which has injured or killed a domestic animal in a first unprovoked attack while off of the premises of the owner.

Animal shall mean any domesticated animal or any captive wild animal.

Animal control officer shall mean any person employed or appointed by the county who is authorized to investigate, on public or private property, violations relating to animal control or cruelty to animals pursuant to state law and this article.

Animal shelter shall mean any facility designated by the county for the purpose of housing and caring for animals held under the authority of this article or state law.

At large shall mean any animal, other than a dog, which is off of the premises of the owner while not under the supervision of the owner, or, in the case of dogs, when any dog is off of the premises of the owner while not under the direct control of the owner.

Attack shall mean the act by any animal of approaching a domestic animal or a person in such a manner that hostile contact with the other animal or a person occurs.

Board shall mean the Board of County Commissioners.

Citation shall mean a written notice issued to a person by an animal control officer stating that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly-enacted ordinance and that the county court will hear the charge.

County health officer shall mean the person designated by the Board of County Commissioners pursuant to the definition in F.S. ch. 154 and F.A.C. ch. 10D-3.

Dangerous animal shall mean an animal that has, when unprovoked,

a) bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property; or

b) has more than once severely injured or killed a domestic animal while off the owner's property; or

c) has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion, or an apparent attitude of attack,

d) provided that such actions as set forth and described in paragraphs a), b) and c) above are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority; or,

e) in the case of a dog, has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting.

Direct control shall mean

a) immediate continuous physical control of a dog at all times by means of a leash, cord, or chain of such strength to restrain the dog, and

b) controlled by a person capable of restraining the dog, or

c) safe and secure restraint within a vehicle.

d) ~~If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog,~~ ~~v~~Voice control shall be considered direct control when the dog is actually participating in training or official showing, obedience, or field events.

e) Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or of government police dogs.

Director of animal control shall mean the person designated by the county administrator to enforce the ordinances and laws pertaining to animal control and cruelty to animals.

Division of animal control shall mean the agency designated by the Board of County Commissioners to enforce the ordinances and laws pertaining to animal control and cruelty to animals.

Endanger shall mean risk of harm or imperil.

Exposure to rabies shall mean contact by any person, domestic animal or captive wild animal with saliva, brain tissue, or body fluids of a rabid animal or of an animal suspected to be rabid due to its apparent ill health, or which is of a species commonly recognized to be a carrier of rabies, such as, but not limited to, raccoons, foxes, bats, skunks, and bobcats.

Feral animal shall mean any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.

Impoundment shall mean the taking up and confining of an animal by the division of animal control in a manner consistent with professionally-recognized standards of humane treatment.

Livestock shall mean all domestic animals, excluding dogs, cats, ferrets, or horses, kept for use on a farm or raised for sale and profit.

Neutered shall mean rendered permanently incapable of reproduction or permanently incapable of reproduction because of physiological sterility, but only where the neutered condition has been certified by a veterinarian licensed in any state.

Owner shall mean any person, firm, ~~or~~ corporation or organization owning, possessing, harboring, or having control, custody and care of an animal. If the animal is owned by a person under 18 years, that person's parent or guardian. ~~keeping any animal, or in the case of a person~~

~~under the age of 18 years of age, that person's parent or legal guardian. This definition shall not apply to any veterinary clinic or boarding kennel.~~

Person shall mean any individual, firm, corporation, partnership, organization, or association.

Potential rabies carrier shall mean any species commonly recognized to be a carrier of rabies, such as, but not limited to, raccoons, foxes, bobcats, and skunks.

Public nuisance shall mean

a) any animal which chases vehicles or molests passersby; or,

b) any animal, ~~other than a dog~~, which runs at large upon public or private property without permission from the property owner; or,

c) any animal which soils, defiles, or defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of it; or,

d) any animal which causes unsanitary or dangerous conditions to exist;

e) any feral animal; or

f) any animal which continuously barks, howls, or otherwise disturbs the peace.

Severe injury means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

Tethering shall mean a rope, leash, pulley run or other means of constraint, which must be attached to the animal by a properly applied collar, halter or harness and configured so as to protect the animal from injury and prevent entanglement with other objects and/or animals. This shall not apply to an owner who is walking or exercising their animal.

Veterinarian shall mean a person who is licensed to engage in the practice of veterinary medicine as provided for in ~~F.S.~~ ch. 474, *Florida Statutes*.

Unprovoked shall mean that the victim who has been conducting himself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by an animal.

Veterinary hospital or clinic shall mean any place or facility owned or operated by a licensed veterinarian and used for the practice of veterinary medicine in the diagnosis, treatment, and care of diseases of and injuries to animals, or used for the boarding of animals during such diagnosis, treatment or care, or used for the temporary boarding of animals belonging to the veterinarian's clients.

Section 4-27. Statutory authority.

This article is an exercise of authority under state law.

Section 4-28. Area of enforcement.

This article shall be effective throughout the unincorporated area of the county and within any incorporated area of the county upon execution of an interlocal agreement with the incorporated area specifying the terms for implementation and enforcement of this article within the incorporated area. However, this ordinance shall not be applicable to research and instructional programs conducted in the interest of medical science by universities registered with the United States Department of Agriculture and operated under federal statutes and rules.

Section 4-29. Enforcement generally; penalties.

(a) In addition to or in lieu of impounding an animal which any animal control officer or any law enforcement officer has probable cause to believe is in violation of this article the officer may issue a citation to the owner or keeper of the animal, provided, however, that upon a

second conviction within the same household of a violation of sections 4-35 through 4-39, the animal shall be confined to the owner's premises by means of an enclosure approved by the division of animal control for restraining the animal and for preventing its escape.

(b) Any person to whom a citation is issued shall pay the fine by the designated date or appear in county court at the time, date and location designated in the citation.

~~(c) Minimum civil penalties for violations of this article not otherwise listed below are as follows:~~

~~(1) First violation.....$30.00~~

~~(2) Second violation.....75.00~~

~~(3) Thereafter.....250.00~~

~~(4) Violation of sections 4-37 and 4-38:~~

~~First violation.....$250.00~~

~~Thereafter, mandatory court appearance and a minimum fine of.....500.00~~

~~(5) Violation of section 4-39, mandatory court appearance~~

~~and a minimum fine of.....500.00~~

~~(6) Minimum civil penalty for violations which result in the destruction or loss of personal property are as follows:~~

~~First violation.....100.00~~

~~Second violation.....250.00~~

~~Thereafter, mandatory court appearance and a minimum fine of.....500.00~~

~~(7) Minimum civil penalty for violations which result in the unprovoked, biting, wounding, or attacking of a domestic animal or person are as follows:~~

~~First violation (person) .....450.00~~

~~First violation (animal) .....250.00~~

~~Thereafter, mandatory court appearance and a minimum fine of .....500.00~~

~~(8) Minimum civil penalties for violation of any provision pertaining to dangerous or aggressive animals which does not result in injury to a person or domestic animal are as follows:~~

~~First violation .....250.00~~

~~Thereafter, mandatory court appearance and a minimum fine of .....500.00~~

~~(9) Minimum civil penalties for violation of any provision pertaining to dangerous or aggressive animals which results in injury to a person or domestic animal.~~

~~Mandatory court appearance and a minimum fine of .....500.00~~

~~(d)~~(c) Any person electing to appear or required so to appear waives the right to pay the minimum civil penalties.

(d)~~(e)~~ Penalties shall be in addition to court costs as established by the county court.

(e)~~(f)~~ The maximum civil penalty for each violation shall be $500.00.

(f)~~(g)~~ If a person to whom a citation is issued does not contest the citation and elects to pay the applicable civil penalty in lieu of appearing in county court, the civil penalty shall be less than the maximum civil penalty.

(g)~~(h)~~ A mandatory court appearance shall be required for any of the following:

(1) Third and subsequent violations of this article, except as provided in section 4-29(4), (5), (6), (7), (8), and (9).

(2) Third and subsequent violations which result in the destruction or loss of personal property.

(3) Second and subsequent violations which result in the unprovoked biting, wounding, or attacking of a domestic animal or person.

(4) Second or subsequent violations of sections 4-37 and 4-38.

(5) Violations of Section 4-39.

(6) Second and subsequent violation of any provision pertaining to dangerous or aggressive animals which does not result in injury to a person or domestic animal.

(7) Violation of any provision pertaining to dangerous or aggressive animals which results in injury to a person or domestic animal.

(h) Minimum civil penalties for violations of the article not otherwise listed above are as follows:

Code Section	Description of Violation	1st Violation	2nd Violation	3rd Violation & thereafter
4-34	Obstructing Enforcement	$30.00	$75.00	$250.00
4-35	Running at Large	$30.00	$75.00	$250.00
4-36	Public Nuisance Prohibited	$30.00	$75.00	$250.00
4-37	Humane Care Required	$250.00	Thereafter $500.00 and mandatory court appearance	
4-38	Animals in Motor Vehicles	$250.00	Thereafter $500.00 and mandatory court appearance	
4-39	Exploitation of Animals prohibited	$500.00 and mandatory court appearance		
	Violations which result in the destruction or loss of personal property	$100.00	$250.00	$500.00 and a mandatory court appearance.
	Violations which result in the unprovoked, biting,	$450.00 (person) $250.00 (animal)	$500.00 thereafter and mandatory	

	wounding or attacking of a domestic animal or person		court appearance.	
	Violations of any provision pertaining to a dangerous animal which does not result in injury to a person or domestic animal.	$250.00	$500.00 thereafter and mandatory court appearance.	
	Violations of any provision pertaining to aggressive animals which does not result in injury to a person or domestic animal	$250.00	$500.00 thereafter and mandatory court appearance.	
	Violations of any provision pertaining to dangerous animals which does result injury to a person or domestic animal.	$500.00 and mandatory court appearance.		
	Violations of any provision pertaining to aggressive animals which does result in injury to a person or domestic animal.	$500.00 and mandatory court appearance.		

(i) In addition to any penalties and/or court costs imposed by this Article or the Court, there shall be imposed and collected by the Clerk of the Court a $5.00 surcharge upon each civil penalty imposed for all citations issued for violations of this Article. All funds collected as a direct result of this surcharge shall be placed in a fund by the County to be utilized for funding training of Leon County Animal Control Officers as required by Section 828.27(4)(b), Florida Statutes.

Section 4-30. Rules and regulations.

The Board of County Commissioners may, by resolution, enact reasonable rules and regulations to implement and carry out the provisions of this article and state law.

Section 4-31. Designation of enforcement officers.

(a) The Board of County Commissioners is hereby authorized to designate certain of its employees in the animal control division as enforcement officers, herein referred to as "animal control officers." The training and qualifications of the employees for such designation shall be determined by the board.

(b) The director of animal control or any animal control officer shall have the authority to enforce this article. The director of animal control and each person designated as an animal control officer pursuant to F.S. ch. 828, may issue to the known owner or keeper of such animal a warning notice or citation as defined in section 4-29.

Section 4-32. Enforcement procedures.

The procedures and guidelines used by the division of animal control in administration of this article shall be established by the board based upon recommendations from a citizen's committee consisting of a licensed veterinarian, a person knowledgeable in animal behavior, a law enforcement officer, and two citizens.

Section 4-33. Right of entry.

(a) Pursuant to F.S. §§ 828.27, 828.073, and 125.01, the director of animal control and/or any animal control officer shall have the authority to enter public or unfenced private property within the county to carry out the duties imposed by this article.

(b) Pursuant to F.S. §§ 828.27, 828.073, and 125.01, the director of animal control, and/or any animal control officer shall have the authority to enter fenced private property, exclusive of buildings, when:

(1) The owner or keeper of an animal which has bitten or otherwise exposed a human or domestic or captive wild animal to rabies refuses to surrender such animal for rabies quarantine.

(2) The animal being sought was at large immediately prior to the division of animal control receiving a complaint that the animal was at large chasing people or domestic animals or was causing the destruction or loss of personal property, but subsequently returned to its owner's fenced private property, provided, however, that the animal has the capability to leave the fenced property by climbing, jumping, or crawling under the fence and provided that an attempt to contact the owner, if known, was unsuccessful.

(3) The division of animal control is taking possession of any animal found neglected or cruelly treated pursuant to ~~F.S.~~ §§ 828.27, 828.073, *Florida Statutes*, and 125.01, *Florida Statutes*.

(4) Pursuant to Section 767.12, F.S., and 125.01, F.S., the division of animal control is taking possession of any animal initially determined as dangerous or aggressive.

Section 4-34. Obstructing enforcement.

No person shall:

(1) Refuse to surrender an animal upon lawful demand by the director of animal control or any animal control officer.

(2) Interfere with the director of animal control of any animal control officer who is lawfully performing his or her duties.

(3) Hold, hide, or conceal any animal which the director of animal control or an animal control officer has deemed to be in violation of this article.

(4) Take or attempt to take any animal from the director of animal control or an animal control officer or from any vehicle used by him to transport animals in the legal performance of his or her duties.

(5) Take or attempt to take any animal from an animal control shelter, a humane live trap, or an animal carrier, without proper authority.

Section 4-35. Running at large.

(a) *Generally prohibited.* It shall be unlawful for any animal ~~dog~~ to run or remain at large on any public street, road, alley, park or other public place.

(b) It shall be unlawful for any animal to run or remain at large upon any private property, whether under direct control or not, without the consent of the owner of such private property.

(c) It shall be a violation of this article for the owner or keeper of any animal 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 consent of that property owner.

(d) The owner or keeper of any animal found running or remaining at large shall be responsible for any violation of this article.

(e) ~~(b)~~ *Dogs and cats in estrus(heat).* The owner of any female dog or cat in estrus shall keep such dog or cat confined in a building or secure enclosure, veterinary hospital, or boarding kennel in such manner that such female dog or cat cannot come in contact with a male dog or cat, except for intentional breeding purposes.

(f)~~(e)~~ *Exceptions.* ~~Subsections (a) and (b)~~ This section shall not apply to:

(1) Any dog actually engaged in a legal sport, including supervised hunting within authorized areas.

(2) Any dog or cat being officially showed or trained.

(3) ~~Seeing eye , or hearing ear , or other service dogs for the handicapped.~~ Any animal that is especially trained to assist or provide personal services for a disabled person, as defined under the American With Disabilities Act.

(4) Government police dogs.

Section 4-36. Public nuisance prohibited.

(a) It shall be unlawful for any person to allow his or her animal to become a public nuisance.

(b) The owner of any domestic or captive wild animal which is a public nuisance shall be subject to the procedures and penalties set forth in section 4-29.

(c) Any animal which is feral shall be classified as a public nuisance and shall be impounded and humanely euthanized. Feral animals shall not be required to be held for a minimum period of time as is required for other stray animals (as provided in division 2).

(d) ~~When an animal control officer or a law enforcement officer witnesses an animal continuously barking, howling or otherwise disturbing the peace, the owner shall first be given written notification by the county that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable efforts to abate the nuisance, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal become a public nuisance.~~ Any nuisance complaint may be investigated by animal control or law

enforcement. The owner shall first be given written notification by the county that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable effort to abate the nuisance within seven (7) calendar days of the written notice of violation, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal to become a nuisance.

(e) Subsequent violations, after warning, shall be based on the animal control officer or law enforcement having 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. Close proximity shall mean residing within a radius of 200 feet from the residence or location of the offending animal but shall not preclude the consideration of evidence and testimony of persons living more than 200 feet from the residence or location of the offending animal. One affidavit may be sufficient to warrant an investigation where there is only one party in close proximity to the alleged nuisance.

Section 4-37. Humane care required.

(a) No owner shall fail to provide his or her animal with sufficient and wholesome food, proper shelter and protection from the weather at all times, veterinary care when needed to prevent suffering, and with humane care and treatment, including sufficient exercise space. The owner of an animal shall provide clean water for the animal in a sufficient quantity to maintain the animal in a healthy condition. Water shall be provided at all times in a stable container which is sized appropriately for the animal's species and breed.

(b) No person shall overload, overwork, torture, or torment, deprive of necessary sustenance, beat, mutilate or inhumanely kill, or otherwise abuse any animal or cause or permit the same to be done.

(c) No person shall abandon any animal by forsaking the animal entirely or by neglecting or refusing to provide or perform the legal obligations for care and support of the animal.

(d) Any person who, as the operator of a motor vehicle, strikes a domesticated animal, should immediately report such incident to any law enforcement agency or to the Division of Animal Control.

(e) *Tethering*. No person shall under any circumstances tether or otherwise confine any animal in a manner that is injurious to the animal's health, safety and well-being. Proper and humane tethering includes, but is not limited to the following:

(i) Collars used to attach an animal should be comfortable and properly fitted. The use of choke chains is prohibited.

(ii) The tether shall not extend over an object or edge in such a manner that could result in strangulation of or injury to the animal. The length of the tether must be a minimum of six (6) feet, or at least three times the length of the animal measured from the animal's nose to the base of its tail, whichever is greater, unless the tether is being used to secure the animal to the bed of an open vehicle or pick-up truck. Restraints should allow the animal to move about and lie down comfortably.

(iii) Tethering of an animal is prohibited during natural disasters such as flood, fires, tornadoes, hurricanes or blizzard.

(iv). No animal shall be confined to a vacant or abandoned structure.

Section 4-38. Animals in motor vehicles.

(a) No operator of a motor vehicle shall transport or keep an animal in or on any motor vehicle unless the animal is safely enclosed within the vehicle or protected by a container, cage, cross tethering, or other device that will prevent the animal from falling from, being thrown from, or jumping from the motor vehicle.

(b) It shall be unlawful for a motor vehicle owner or operator to place or confine an animal or allow it to be placed or confined or to remain in an un-attended motor vehicle without sufficient ventilation or under conditions for such a period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water, or such other circumstances as may reasonably be expected to cause suffering, disability or death of the animal.

(c) Officers finding an animal under the conditions referenced above may rescue such animal from the vehicle following the policy established by animal control.

(d) Any officer who acts in substantial compliance with the requirements of this section shall make the officer and/or the county immune from any criminal or civil liability.

Section 4-39. Exploitation of animals prohibited.

It is unlawful for any person to promote, conduct or permit exploitive animal contests, performances, or exhibitions, in which animals are encouraged, forced, or trained to perform unnaturally, including, but not limited to, greased pig contests, equine basketball, diving equine acts, or roadside zoos or menageries.

Section 4-40. Reserved.

Section 4-41. Procedure upon citation.

(a) Any person cited for violation of the animal control ordinance ~~(Division 1)~~ shall be deemed to be charged with a civil infraction and cited to appear in county court.

(b) Any person cited for an infraction under this section must:

(1) Sign and accept a citation indicating a promise to appear in county court at the time, date, and place indicated in the citation, or, in lieu of appearing, pay the applicable civil penalty prior to the court date noted on the citation.

a. *Exception.* No person to whom a citation has been issued which requires a mandatory court appearance may pay the civil penalty in lieu of appearing in county court.

(c) Any person who willfully refuses to accept and sign the citation shall be in violation of state law and this article and shall be punished in accordance with F.S. §§ 775.082, 775.083, or 775.084, as provided by F.S. ch. 828.

(d) If the person cited pays the applicable civil penalty in lieu of appearing in county court, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction.

(e) Any person electing to appear or who is required so to appear shall be deemed to have waived his or her right to pay the minimum civil penalty.

Section 4-42. Fees.

The Board of County Commissioners of Leon County, Florida, may, by resolution, establish and subsequently amend a fee schedule for the division of animal control which shall be administered by the division. All fees collected under this section that are not expended in the

current fiscal year, shall be carried over to the succeeding fiscal year for expenditure in the division of animal control.

Sections 4-43 – 4-60. Reserved.

DIVISION 2. IMPOUNDMENT, REDEMPTION, ETC.

Section 4-61. Authority of county.

The director of animal control or any animal control officer shall pick-up, catch or confine any animal in violation of this article.

Section 4-62. Restraint by property owner.

A property owner or tenant may restrain in a humane manner any animal found in violation of this article on his or her property. When such restraint is made, the property owner or tenant shall immediately notify the division of animal control. The property owner or tenant shall treat the animal humanely and shall exercise due care to ensure the animal's safety and well-being. The director of animal control or any animal control officer may impound any animal delivered by its owner, or may pick up and impound any animal restrained by a property owner as described above, and shall dispose of the animal pursuant to this article.

Section 4-63. Redemption.

Stray animals which are impounded and are not suffering from or suspected of having an infectious disease, shall be held for not less than five business ~~consecutive~~ days excluding day of impoundment, unless sooner redeemed by the owner. Animals that are ill or injured ~~animals~~ may be euthanized prior to the expiration of the five-day holding period in accordance with F.S. § 828.05. In instances when the owner of an impounded animal can be determined the director of animal control or any animal control officer shall make a reasonable attempt to contact the

owner before the disposition of the animal. A reasonable attempt to contact the owner shall be satisfied by a telephone call to the telephone number provided by the owner on two separate days and times, and should the telephone method fail, by placing a notice in a conspicuous place on the owner's premises.

Section 4-64. Disposal of animals.

(a) Feral or unweaned animals may be euthanized immediately upon impoundment. Other animals not claimed at the end of the fifth business day or after the quarantine period and animals impounded pursuant to section 4-77 shall become the property of the county.

(b) Before any animal may be adopted from the animal shelter, provision shall be made for such animal to be neutered with the following exceptions:

(1) A dog or cat claimed by the owner before the end of the fifth business day or at the end of the quarantine period shall not be required to be neutered before its release to the owner.

(2) If the dog or cat is under the age of six months, provisions shall be made to have it neutered at the age of six months.

(3) Upon the request of a licensed veterinarian, and for a valid medical reason, such as the relative immaturity of a particular animal or breed at the required age of sterilization or the presence of a medical problem or condition in a particular animal which makes surgery at the time inadvisable, the director of animal control shall extend the time limits within which the animal must be sterilized.

(c) No animal from the unincorporated area of the county which has been classified as dangerous, or which has been involved in an unprovoked bite or attack on a person or domestic animal, shall be placed for adoption from the animal shelter if the owner does not redeem the animal. An animal involved in a bite or attack on a person or domestic animal shall be placed for adoption into the unincorporated area of the county only with prior approval of the director of animal control, to be determined on a case-by-case basis.

(d) Any animal not redeemed by its owner or adopted as a personal pet shall be humanely euthanized.

Section 4-65. Fees.

Impoundment and board fees for animals under this division shall be as follows:

(1) Impoundment, $30.00.

(2) Boarding fees, for each day the animal is impounded or partial day thereof, shall be established by a resolution of the board.

Sections 4-66—4-75. Reserved.

DIVISION 3. RABIES CONTROL

Section 4-76. Rabies vaccination required.

(a) *Frequency; exception.* Every ferret, dog and cat four months of age or older shall be vaccinated against rabies with a U.S. government-approved vaccine. Each animal shall be required to be vaccinated no more frequently than the effective period of the approved vaccine used. Such vaccination is excused only if a licensed veterinarian certifies in writing that a vaccination would be injurious to the ferret's, dog's or cat's health. In such case, the ferret, dog

or cat shall be confined in an enclosed building or kennel until the ferret, dog or cat can be safely vaccinated.

(b) *Proof of vaccination; tags.* Proof of vaccination shall consist of a rabies vaccination certificate signed by the licensed veterinarian administering the vaccination and a rabies vaccination tag. The rabies vaccination tag shall be displayed ~~about~~ around the ferret's, dog's or cat's neck at all times. A rabies vaccination certificate and a rabies vaccination tag issued for one ferret, dog or cat shall be not valid for any other ferret, dog or cat. Rabies vaccinations by a licensed veterinarian outside of the county shall be recognized as current rabies vaccinations in the county throughout the duration of the vaccine used.

(c) *Removal of tag.* It is unlawful for any person to remove the rabies vaccination tag of any currently vaccinated ferret, dog or cat unless:

(1) The ferret, dog or cat is participating in any organized exhibition or field trial, or is training for these events, or is engaged in a legal sport under competent supervision; or

(2) A licensed veterinarian directs in writing that the rabies vaccination tag be removed for reasons of the ferret's, dog's or cat's health. In such event, the ferret, dog or cat shall be confined until the veterinarian permits the tag again to be placed on the ferret, dog or cat; or

(3) The animal is securely confined.

(d) *Display of proof.* It is unlawful for the owner of a ferret, dog or cat to refuse to show proof of current vaccination of such ferret, dog or cat by the end of the next business day if

such information is requested by the director of animal control, any animal control officer or the ~~HRS~~ Department of Health-Leon County public health unit.

(e) *Rabies information to go to county.* Any veterinarian administering a rabies vaccination to a ferret, dog or cat within the county shall furnish the information contained therein to the division of animal control or to the ~~HRS~~ Department of Health-Leon County public health unit upon request.

Section 4-77. Animal bites.

(a) When any animal bites or wounds a human or when a human or domestic or captive wild animal is bitten by or exposed to rabies by a suspected or known rabid animal, the owner shall comply fully with ~~F.A.C. ch. 10D-3, "Communicable Disease Control."~~ Chapter 64D-3, ("Control of Communicable Diseases & Conditions which May Significantly Affect Public Health"), Florida Administrative Code.

(b) It shall be the duty of any person having knowledge that an animal has bitten or otherwise exposed a person or domestic or captive wild animal to rabies, to report the incident immediately to the division of animal control or to the ~~HRS~~ Department of Health-Leon County public health unit for examination, or for supervised quarantine of the animal at the expense of the owner.

(c) Any ferret, cat or dog which has bitten or exposed a human to rabies shall be quarantined for a period of not less than ten days from the date of exposure.

(d) The procedures for the investigation of animal bites inflicted by animals other than ferrets, dogs and cats shall be followed in accordance with the provisions set forth in Chapter 64D-3, F.A.C. ~~ch. 10D-3~~.

(e) The location and conditions of examination or quarantine of animals which have bitten or otherwise exposed a person to rabies shall be established by the county health officer, (Chapter 64D-3, F.A.C. ~~ch. 10D-3~~).

(f) It shall be unlawful for any person to hide, conceal, or refuse to surrender any animal for examination or quarantine upon lawful demand to do so by the division of animal control or the ~~HRS~~ Department of Health-Leon County public health unit.

(g) Any person having knowledge that a domestic animal has been bitten by or otherwise exposed to rabies by a wild animal of a species commonly recognized to be a carrier of rabies, such as, but not limited to, raccoons, foxes, skunks, bats, and bobcats, shall immediately report such bite or exposure to the division of animal control or to the ~~HRS~~ Department of Health-Leon County public health unit for the investigation of such bite or exposure.

Section 4-78. Potential rabies carriers.

No person shall keep, own, possess, or harbor any potential rabies carriers as defined in this article as a personal pet within the county. Owners of potential rabies carriers obtained prior to June 1, 1988 shall be allowed to keep, own, possess, or harbor the animal, provided that they are properly permitted through state or federal agencies, and further provided that the animal was not obtained from the wild. Adequate living quarters and confinement must be provided for the animal which are consistent with the species' normal requirements for size, shelter, exercise area, heat, ventilation, light, and safety. All areas for the animal must be maintained in a sanitary manner. Owners of animals which were obtained prior to June 1, 1988 shall not replace a wild animal with another prohibited potential rabies carrier if the animal owned prior to June 1, 1988 becomes lost, is stolen, is given away, or dies. The prohibition on the ownership of potential

rabies carriers shall not apply to property licensed or permitted museums, wildlife rehabilitators, zoological parks, or research facilities. It shall be the responsibility of the owner of any potential rabies carrier animal to provide proof of the acquisition date and the animal's source if requested to do so by the division of animal control.

Sections 4-79—4.90. Reserved.

DIVISION 4. DANGEROUS AND AGGRESSIVE ANIMALS

Section 4.91. Disposition generally.

(a) *Aggressive classification.* Any animal classified as aggressive according to the definitions in this article shall be, at the time of being so classified, confined permanently to the owner's premises.

(b) *Dangerous classification*. Any animal classified as dangerous ~~or aggressive~~ according to the definitions in this article shall be, at the time of being so classified, either confined permanently to the owner's premises, or humanely destroyed.

Section 4-92. Exception to classification.

(a) No animal shall be classified as dangerous or aggressive because of injuries it has inflicted upon another domestic animal which at the time was teasing, tormenting, abusing, or assaulting the animal.

(b) No animal shall be classified as dangerous if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a tort or a crime upon the owner of the animal or who was committing a willful trespass upon the premises occupied by the owner of the animal, or who was teasing, tormenting, assaulting or abusing the animal or its owner.

Section 4-93. Petition for classification--Generally.

(a) The division of animal control or any adult person may request under oath that an animal be classified as dangerous or aggressive as defined in this article by submitting a "petition for classification of a dangerous or aggressive animal," hereinafter called the "petition," to the division of animal control.

(b) Upon receipt of a petition, the director of animal control shall notify the owner of the animal that a petition has been filed with the division, and that an investigation in the allegations as set forth in the petition will be conducted. No animal that is the subject of a dangerous or aggressive animal investigation may be re-located or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous or aggressive animal classification. In the event that an animal is to be humanely destroyed, the animal shall not be re-located or ownership transferred prior to euthanasia.

(c) *Initial determination of classification.* Upon completion of the investigation, ~~a classification committee, consisting of a local veterinarian, the sheriff or his or her designee, and an informed citizen appointed by the board,~~ the director of Animal Control or his/her designee shall make an *initial* determination as to whether there is sufficient cause to classify ~~the dog~~ an animal as dangerous or aggressive and shall afford the owner an opportunity for a hearing prior to making a final determination.

(1) The animal control director ~~authority~~ shall provide written notification of the sufficient cause finding to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. ch. 48, relating to service of process.

(2) The animal *initially* ~~pre~~determined to be dangerous or aggressive shall be impounded by the county at the owner's expense, pending the disposition of the hearing and/or compliance with harboring a dangerous or aggressive animal.

(3) Any animal that continues to violate the county ordinance while under a dangerous or aggressive animal investigation may be impounded pending the animal control director's ~~classification committee's~~ *initial* determination at the owner's expense.

(d) *Owner's Right to Contest the Initial Determination of Classification and Final Determination by the Animal Classification Committee*. Upon receiving written notification of the animal control director's *initial* determination of classification, the owner may contest the *initial* determination by filing~~e~~ a written request to the animal control division for a hearing within seven (7) calendar days from the date of receipt of the notification of the *initial* determination ~~sufficient cause~~ finding. Otherwise, the animal control director's initial determination shall become final. Such hearing shall be convened by the Leon County Animal Classification Committee. The Leon County Animal Classification Committee shall consist of a licensed veterinarian, the Leon County Sheriff or his/her designee, and an informed citizen appointed by the Leon County Board of County Commissioners.

(1) ~~and~~, I~~i~~f requested, the *Final* Determination hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than five (5) days after receipt of the request from the owner.

(2) If the animal classification committee finds sufficient cause to classify the animal dangerous or aggressive the classification committee shall determine the classification and disposition of the animal based upon the guidelines adopted by the Board.

(3) In hearings before the animal classification committee, formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. The classification committee shall decide the issues based upon the preponderance of the evidence, and its decision shall be final.

(4) Where a disposition of permanent confinement has been determined by the animal classification committee, the committee shall reserve jurisdiction to alter the disposition should the classified animal, subsequent to the determination by the committee, bite, wound, attack or kill or assist in biting, wounding, attacking, or killing a person or domestic animal. Thereafter, the director of animal control shall notify the animal's owner and the petitioner in writing by registered mail or certified hand delivery of the findings of the investigation, the proposed disposition of the animal and the review process.

~~(d)~~(e) *Request for Continuance*. If the owner, ~~or~~ keeper or Petitioner cannot appear at any hearing scheduled by the animal classification committee, he or she shall contact the division of animal control no later than 48 ~~24~~ hours prior to the hearing, requesting a continuance to the next available date.

(f) *Waiver.* If the owner, ~~or~~ keeper or Petitioner fails to appear at the rescheduled classification hearing, the owner, ~~or~~ keeper or Petitioner of such animal shall be deemed to have waived his or her right to appear at such hearing. In such case, the division of animal control shall proceed with the hearing and shall notify the owner, ~~or~~ keeper or Petitioner in writing of the findings of the committee.

Section 4-94. Same—Owner's right to contest final determination in the county court.

(a) If the owner or keeper of an animal classified as dangerous or aggressive disputes the Final Disposition order of the animal classification committee, he or she may file a Complaint seeking relief in the County Court, within ten (10) business days following the date of receipt of the animal classification committee's Final Disposition ~~order apply to a court of competent jurisdiction for any remedies which may be available~~.

(b) The Complaint shall be served upon the Chairman of the Leon County Board of County Commissioners in accordance with Chapter 48, Florida Statutes. A copy of the Complaint ~~action~~ seeking relief shall be served upon the ~~e~~County Attorney's Office.

(c) The Complaint shall comply with the standards and requirements set forth in the *Florida Rules of Civil Procedures* for bringing causes of actions.

(d) *Burden of Persuasion.* A Complaint to contest the Final Disposition order of the animal classification committee shall be held by *trial de novo* in the county court. The party bringing the Complaint shall have the *initial* burden of going forward with the evidence at trial.

(e) If the owner or keeper of the animal is unable to or fails to or refuses to confine the animal in a securely enclosed area, complying with section 4-100, until the conclusion of the judicial proceeding, the animal classified as dangerous or aggressive shall be impounded by the division of animal control at the owner's expense pending the disposition of the hearing in accordance with the rules and regulations established by the board.

~~(b)~~ (f) If no legal action has been served upon the county within the time period specified above, or if the owner or keeper fails to appear at the judicial proceeding scheduled pursuant to the foregoing subpart, the owner or keeper of such animal shall be deemed to have waived his or

her right to protest such classification or order to permanently confine or to destroy the animal. In such case, the division of animal control shall proceed with the disposition of the animal.

~~(e)~~(g) If the county court ~~a court of competent jurisdiction~~ finds that the animal is not dangerous or aggressive as defined in this chapter, the animal shall be released to the custody of the owner or keeper. In such case, the county shall be liable for costs of impoundment of the animal from the date of service of the owner or keeper's legal action of the county until the date of the county court's finding denying the classification.

Section 4-95. Citation.

An animal control officer shall issue a citation to any owner or keeper of a dangerous or aggressive animal found in violation of any of the provisions of this article. In addition to the issuance of a citation, an animal control officer may impound the animal when it is found in violation of any of the provisions of this article.

Section 4-96. Impoundment; permit and tag required for dangerous or aggressive animals.

(a) An animal control officer shall impound any animal which, subsequent to its classification as a dangerous or aggressive animal, bites, wounds, attacks or kills, or assists in biting, wounding, attacking, or killing, any person or domestic animal. Such animal shall remain impounded pending a rehearing on the determination of the disposition of the animal by the classification committee pursuant to section 4-94. The impoundment and care of the animal shall be at the owner's expense.

(b) The owner or keeper of a dangerous or aggressive animal shall, within 14 days of the classification of the animal as dangerous or aggressive, upon a court's upholding of the

classification or upon the acquisition of such an animal, obtain a permit from the division of animal control to harbor the animal. No permit shall be issued until sections 4-100, 4-101, 4-102, 4-103 have been completed. The fee for the permit shall be $~~50.00~~ 100.00.

(c) At the time the permit is issued, a red circular tag shall be issued to the owner or keeper of the dangerous or aggressive animal. Such tag shall be worn at all times by the animal to clearly and easily identify it as a dangerous or aggressive animal.

(d) The permit for maintaining a dangerous or aggressive animal shall be presented to any animal control officer or to any law enforcement officer upon demand.

(e) The permit shall be valid for a period of one year from the date of classification.

(f) An animal control officer shall impound any animal that has not been declared dangerous or aggressive under this section that aggressively attacks and causes severe injury to or death of any human. Such animal shall remain impounded pending a hearing on the determination and of the disposition of the animal by the classification committee pursuant to sections 4-93 and 4-94. The impoundment and care of the animal shall be at the owner's expense.

Section 4-97. Notification of change of status.

(a) The owner or keeper of a dangerous or aggressive animal shall notify the division of animal control immediately if the animal escapes from its enclosure or restraint and is at large, or if it bites or attacks a person or domestic animal, or if it dies. If the animal dies, satisfactory proof of such death must be provided to the division of animal control within 24 hours. Satisfactory proof shall be either verification from an animal shelter or veterinary hospital that the animal was euthanized, or verification from an animal control officer that he or she has seen the dead body of the animal.

(b) If the owner or keeper of a dangerous or aggressive animal intends to change his or her address, or sell, give away, or trade any dangerous or aggressive animal, he or she shall notify the division of animal control prior to such change of address, sale, transfer, or trade. The owner or keeper shall provide the division of animal control with the new name, address, and phone number of the person receiving the animal, as well as the location at which the animal will be maintained. Further, it shall be the responsibility of the owner to notify the person receiving the dangerous or aggressive animal in writing of the classification of the animal as dangerous or aggressive.

(c) Any person receiving an animal classified as dangerous or aggressive must obtain the required permit, tag, and enclosure prior to the acquisition of the animal. Any person obtaining an animal classified as dangerous or aggressive shall comply fully with the provisions of this article pertaining to the maintenance, control, and ownership of a dangerous or aggressive animal.

Section 4-98. Neutering.

Any animal classified as dangerous or aggressive shall not be used for breeding. Animals classified as dangerous shall be neutered by a licensed veterinarian within 30 days of such classification unless:

(1) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or

(2) A licensed veterinarian certifies in writing that neutering the animal would be injurious to the animal's health, provided, however, that if the health condition of the animal is of

a temporary nature, then the animal shall be neutered immediately after the health condition has been corrected.

Section 4-99. Tattoo.

(a) Any animal classified as dangerous or aggressive shall be tattooed by a licensed veterinarian or by a trained tattooist at the expense of the owner or keeper of such animal. The tattoo shall be placed on the inside rear thigh with a number corresponding to the number of the permit issued to the owner or keeper at the time of the animal's classification as dangerous or aggressive.

(b) The tattoo shall be placed on the animal within 30 days of such classification.

Section 4-100. Enclosure required.

(a) All dangerous or aggressive animals that are not humanely destroyed shall be confined in an enclosure. As used in this section, "enclosure" shall mean either the residence or other building owned or leased by the animal's owner, or any other secure enclosure which the division of animal control has approved as suitable for restraining the animal and for preventing it from escaping. The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure. The enclosure shall be kept locked at all times to prevent unintentional opening of the enclosure. The dangerous or aggressive animal shall not be permitted to come into contact with animals other than those which reside on the owner's premises. Dangerous animals shall not come into contact with persons other than the owner(s) except as provided in section 4-102.

(b) It shall be unlawful for any owner or keeper of a dangerous or aggressive animal to maintain said animal upon any premises which does not have an enclosure in which to confine the animal.

(c) The enclosure shall include suitable shelter and protection from the elements, and shall provide adequate exercise room, light, ventilation, and sanitation.

(d) The enclosure shall be approved by the division of animal control prior to its usage for confinement.

Section 4-101. Muzzle.

It shall be unlawful for any owner or keeper to allow any dangerous or aggressive animal to be outside of the enclosure unless it is necessary for the animal to receive veterinary care or exercise. The animal shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the animal's breathing.

However, it shall be lawful for an owner to exercise a dangerous or aggressive animal within a securely fenced or enclosed area that does not have a top, without a muzzle, if the animal remains within the owner's sight and only members of his or her immediate household, or persons 18 years of age or older, are allowed in the enclosure when the animal is present.

Section 4-102. Restraint.

Whenever the dangerous or aggressive animal is outside of the enclosure, it shall be restrained by an adult capable of controlling the animal and shall be on a chain of sufficient tensile strength not more than ~~three~~ <u>four</u> feet in length.

However, it shall be lawful for an owner to exercise a dangerous or aggressive animal within a securely fenced or enclosed area that does not have a top, without a leash, if the animal

remains within the owner's sight and only members of his or her immediate household, or persons 18 years of age or older, are allowed in the enclosure when the animal is present. When being transported, such animals must be safely and securely restrained within a vehicle.

Section 4-103. Signs.

The owner or keeper of a dangerous or aggressive animal shall display clearly visible warning signs on all entry points to the premises on which a dangerous or aggressive animal is maintained warning that a dangerous or aggressive animal is being harbored on such property. In addition, at least one sign shall be posted on the enclosure in which the dangerous animal is maintained. Signs must inform both children and adults of the presence of a dangerous or aggressive animal on the property.

Section 4-104. Public records exemption.

Pursuant to state law, the home addresses and home telephone numbers of county animal control officers are confidential and exempt from the provisions of F.S. § 119.07(1) and the Florida Constitution, Article I, Section 24(a).

Section 4-105. Retroactivity.

All appeals of determinations of classification and/or disposition on or after October 1, 1993, shall be subject to sections 4-93 and 4-94.

Section 4-106—4-200. Reserved.

SECTION II. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended,

which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

SECTION III. Severability. If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. Effective date. This Ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida this _____ day of _____, 2005.

LEON COUNTY, FLORIDA

BY:_____
Cliff Thaell, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER
CLERK OF THE COURT

BY:_____
Clerk

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY:_____
Herbert W.A. Thiele, Esq.
County Attorney