

ORDINANCE 19 - 09

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, AMENDING CHAPTER 4 OF THE MARION COUNTY CODE RELATING TO ANIMAL CONTROL; REVISING SECTION 4-2, DEFINITIONS; CREATING NEW SECTION 4-10, FOR MANDATORY MICROCHIPPING; REVISING SECTION 4-12, FOR NUISANCE ANIMALS; REVISING SECTION 4-18, FOR THE LOCATION OF THE SALE OF DOGS AND CATS; CREATING NEW SECTION 4-19, FOR REQUIREMENTS FOR SALE OF DOGS AND CATS; REVISING SECTION 4-22, DAMAGE BY DOGS; CREATING NEW SECTION 4-28 FOR IRRESPONSIBLE ANIMAL OWNERS; CREATING NEW SECTION 4-29, FOR KENNEL LICENSES; FOR PROVIDING FOR RE-NUMBERING OF SECTIONS NECESSITATED BY CREATION OF THE NEW SECTIONS; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, authorizes the Board of County Commissioners of Marion County, Florida, to provide standards which will ensure its citizens' health, safety and welfare; and

WHEREAS, the Board of County Commissioners of Marion County, Florida, recognizes that the health, safety, and welfare of its citizens will be better served by a comprehensive and progressive animal control ordinance; and

WHEREAS, Section 828.27, Florida Statutes, authorizes the Board of County Commissioners of Marion County, Florida to enact and enforce ordinances relating to animal control or cruelty; and

WHEREAS, the Board of County Commissioners desires to amend Chapter 4 of the Marion County Code in furtherance of the foregoing recitals.

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

SECTION 1. Chapter 4 of the Marion County Code of Ordinances, is hereby amended, and is set forth in its entirety below, with deletions reflected by ~~strike through type~~, and additions reflected by underscored type, to read:

Sec. 4-1. - Purpose and intent.

The board of county commissioners shall have authority to establish rules and regulations consistent with and supplemental to, and for the purpose of implementing state statutes governing animals kept within the unincorporated area of the county, and those municipalities included in the jurisdiction of this article by inter-local agreement, including but not limited to, animal seizure, care, control, impoundment, certification, disposition, animal rabies vaccination, licensure and registration requirements, fees and penalties. Penalties or fines for violations of this chapter, and fees for services provided as authorized herein shall be established by board resolution, which may be amended from time to time. The board may enter into inter-local agreements with the various municipalities within Marion County providing for county enforcement of the provisions of this chapter within such municipality and the municipality's repeal of any inconsistent ordinances. This chapter shall be known and may be cited as the "Marion County Animal Services Ordinance." The Marion County Board of County Commissioners hereby declares:

- (a) Protecting animals is a legitimate and compelling public interest.
- (b) Animals held in shelters deserve proper care and humane treatment including prompt veterinary care, adequate nutrition, shelter, exercise, environmental enrichment, and water.
- (c) Marion County Animal Center should not euthanize adoptable animals at the request of their owners.
- (d) Marion County Animal Center will not euthanize any animals if a safe and appropriate life outcome can be achieved with the available resources or with the willingness of a partner organization to receive the animal.
- (e) Marion County Animal Center will not ban, bar, limit, or otherwise obstruct the adoption or transfer of any animal based on arbitrary criteria, such as breed, age, color, or other criteria.
- (f) Marion County Department of Animal Services Director or designee must ensure the purpose and intent of this Chapter is implemented.

Sec. 4-2. - Definitions:

As used in this chapter, the following words and phrases are defined as follows:

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 responsible person. 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.

Animal shall mean any living dumb creature.

Animal Abuse Crime shall mean a violation of any of the following provisions of Florida Statutes:

- (a) Section 828.12 Cruelty to animals.
- (b) Section 828.122 Fighting or baiting animals.

- (c) Section 828.123 Killing dog or cat with intent of selling or giving away pelt.
- (d) Section 828.125 Killing or aggravated abuse of horses or cattle;
- (e) Section 828.126 Sexual activities involving animals.
- (f) Section 828.13 Confinement of animals without sufficient food, water, or exercise; abandonment.

Animal Abuse Offender shall mean any person, eighteen (18) years of age or older, convicted of an Animal Abuse Crime in Marion County, except youthful offenders whose convictions or adjudications include sealed records.

Animal Abuser Registry shall mean the on-line registry established by this ordinance for registering any Animal Abuse Offender residing in the County. The Registry shall initially be created and maintained by a department specified by the County Administrator, or pursuant to an agreement with a third-party administrator. However, responsibility for on-going maintenance of the Registry may be in the future assumed by either the Marion County Sheriff's Office, or the Clerk of the Court, upon agreement between the Board and such agency.

Animal control authority shall mean, in Marion County, the Marion County Department of Animal Services and all of its directors, employees and animal control officers who are authorized by the board to enforce the animal control laws of the county or state, in the unincorporated areas of the county and any municipality pursuant to inter-local agreement. For purposes of sections 4-24 through 4-25 and the enforcement of F.S. Ch. 767, the animal control authority shall be the Director.

Animal control officer or enforcement officer shall mean any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, care or control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

Animal impoundment center shall mean the Marion County Animal Center or any other premises designated by the department of animal services where stray, homeless, abandoned or unwanted animals are impounded, maintained or disposed.

Animal Rescue Organization shall mean a humane society or not for profit corporation who operates a charitable organization under section 501(c)(3) of the Internal Revenue Code and whose mission includes the rescue, care, or adoption of animals, and which does not obtain animals from a breeder or broker for payment or compensation.

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

Bite shall mean a penetration to the skin with teeth and with blood appearing in the wound.

Board shall mean the Board of County Commissioners of Marion County, Florida.

Breeder shall mean any person that owns, harbors, or keeps dogs or cats that reproduce more than two litters, or twenty (20) dogs or cats per year, whichever is greater for any purpose.

Business kennel shall mean any establishment which offers or provides services for remuneration, including, but not limited to, boarding, care, grooming, breeding, stud services, or sale of offspring of adult dogs and cats. Business kennel does not include any property or structure where a Florida state licensed veterinarian practices and has a premises permit, as required by F.S. ch. 474, or any property or structure used as a veterinary hospital, medical research laboratory, pari-mutuel dog racing establishment, or any governmental agency, or to any boarding kennel operated in conjunction with any of the foregoing.

Community cat shall mean any unowned free roaming cat that may be cared for by one or more residents of the immediate area who is/are known or unknown; a community cat may or may not be feral. A community cat may also be defined as a cat “found” outside that is brought to an animal shelter and not yet sterilized and not yet sterilized/ear tipped.

Community Cat Caregiver shall mean a person who provides care, including food, shelter or medical care to a community cat, while not being considered the owner, custodian, harborer, controller or keeper of a community cat or to have care or charge of a community cat.

Conviction shall mean an adjudication of guilt by any court of competent jurisdiction whether upon verdict after trial, plea of guilty, or nolo contendere plea.

County shall mean the unincorporated area of Marion County and any municipality included within the enforcement jurisdiction of this chapter by inter-local agreement.

Cruelty, torture or torment 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 as used in this chapter, unless the context clearly requires otherwise, shall have the same meaning as the definition of dangerous dog in F.S. § 767.11, which currently provides:

- (1) "Dangerous dog" means any dog that according to the records of the appropriate authority:
 - a. Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
 - 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 apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

The foregoing definition shall be deemed to automatically incorporate any legislative changes to the statutory definition, from time to time.

Defecate shall mean to discharge excreta.

Direct control shall mean the immediate, continuous physical control of an animal by means of confining within a house, building, fence, pen or other enclosure, or restrained by means of leash, cord, chain, or similar tether of sufficient strength to restrain the animal subject to the restrictions provided herein.

Director shall mean the Director of the Marion County Department of Animal Services, or his or her designee. The Director shall be deemed to be the animal control authority for purposes of sections 4-21 through 4-25 and the enforcement of F.S. Ch. 767, and any related provisions of this chapter.

Dog means a domestic dog, *Canis familiaris*.

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

Domestic animal running at large or straying shall mean any domestic animal found or being on any public grounds, or land belonging to a person other than the owner of the domestic animal without the landowner's permission, and not under direct control of a person with the exception of a community cat.

Ear tipping shall mean the removal of the ¼ inch tip of a community cat's ear, performed while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian, designed to be the universal identification that the community cat is sterilized and lawfully vaccinated against rabies at least once.

Enclosure means any place where any dog or cat is maintained outdoors including, but is not limited to, a fenced yard, kennel, or run and the dog or cat shall be provided proper shelter within such enclosed area. The enclosure shall be suitable to prevent the escape of the dog or cat or the entry of young children. The enclosed area shall be large enough for the dog's or cat's size and temperament, considering the number of dogs or cats that may be using the enclosure at any given time. For dogs, the enclosure shall be large enough for each dog to achieve a running stride. It shall include a shaded area, either by natural or artificial means that is large enough during all hours to shade all dogs or cats in the enclosure without crowding. The enclosure and surrounding area shall be free from trash, standing water, and cleaned regularly to remove accumulated waste and debris, parasites, including fleas, ticks and rodents so as not to threaten the physical wellbeing of the dog or cat. Each dog or cat housed in the primary enclosure, shall be provided wholesome food and a continuous supply of visibly clean, fresh water provided in a sanitary manner and in a container sized appropriately for the dog's or cat's species and size.

Excreta shall mean feces.

Farm Animal shall mean an Animal used in the production of human or animal food, feed, or fiber. Horses shall not be considered Farm Animals for the purposes of subsection 4-15(g).

Feral cat; feral dog means any cat or dog that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usual and consistent temperament of a feral cat or dog is extreme fear and resistance to contact or handling with or by humans. Feral cats and dogs are completely or substantially unsocialized to humans.

Feral cat colony means a group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate with a colony shall be deemed to be a part of it.

Flea market shall mean any premises where the principal use is the sale or offer of goods by five or more individuals, in an open area or partly enclosed booths or stalls, or within an enclosed building, of personal effects, tools, art work, small household appliances, and other similar merchandise, objects or equipment, in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser.

Harbor shall mean to provide care, shelter, protection, refuge, food or nourishment to an animal.

Large kennel shall mean any person or entity who owns, harbors or keeps more than fifteen (15) dogs or cats, in aggregate, at a property or structure, for any purpose, including, but not limited to, housing, boarding, breeding, training, show or exhibition, hunting, sale, rescue, adoption or personal pet or use. Large kennel does not include any property or structure where a Florida state licensed veterinarian practices and has a premises permit, as required by F.S. ch. 474, or any property or structure used as a veterinary hospital, medical research laboratory, pari-mutuel dog racing establishment, or any governmental agency, or to any boarding kennel operated in conjunction with any of the foregoing. Such definition shall not include the Animal impoundment center or Animal Rescue Organization, as defined.

Leash shall mean a restraint such as a rope, cord, chain, or device that is mobile and no longer than six (6) feet. The owner or responsible person walking a dog using a retractable leash must maintain the device in a locked position whenever off the owner or responsible person's property or leasehold. Homeless or transient persons must keep their dog on a leash at all times when the animal is not otherwise securely confined.

Livestock shall mean grazing animals, such as, cattle, horses, sheep, swine, goats, other hooved animals, ostriches, emus, rheas which are used for private use or commercial purposes.

Livestock fencing minimum requirements shall mean any fence or enclosure at least four (4) feet in height made of barbed or other soft wire consisting of not less than four (4) strands of wire stretched securely on posts, trees, or other supports, standing not more than fifteen (15) feet apart; legal fences may include a gateway providing they have a gate and meet the minimum restrictions of a legal fence. Fencing must be maintained on a regular basis so as to prevent the livestock from leaving the owner's property or leasehold.

Muzzle shall mean a device placed over the snout of a dog that will not cause injury to the animal or interfere with its vision, or respiration, and allows the dog to pant and drink water, but prevents the dog from biting any person or animal.

Occupant shall mean any person, entity, business, firm, corporation, institution or enterprise that is renting, leasing, sub-leasing or occupying a piece of property in which they are not the property owner of record.

Owner shall mean any person over the age of eighteen (18) years of age, or any firm, corporation or organization which owns, manages, possesses, harbors, maintains, has custody of, or controls an animal. For purposes of enforcement of this chapter, an individual shall be deemed to be an owner of any animal found within a residence or structure owned or leased by that individual, and

any animal kept within any cage or other secured enclosure on property subject to such individual's control. An individual shall be deemed to be the owner of any animal that such individual has secured by a rope, chain or tether, whether on or off the property of such individual. If an animal is owned by a person under the age of eighteen (18), not lawfully having been emancipated, that person's parent or guardian shall be the owner. A community cat caregiver is not considered an owner.

Pet dealer shall mean any person, firm, partnership, corporation, or other association which, in the ordinary course of business, engages in the sale of more than two litters, or twenty (20) dogs or cats, per year, whichever is greater to the public. This definition includes breeders of animals who sell such animals directly to a consumer.

Pet shop shall mean a retail establishment where dogs and cats are sold, exchanged, bartered or offered for sale as pet animals to the general public at retail. Such definition shall not include the Animal impoundment center or Animal Rescue Organization, as defined in this chapter.

Pet seller shall mean, an individual or entity who sells, exchanges, gives, transfers possession or ownership of an animal to another person, or intends to do any of the foregoing acts.

Proper enclosure for a dangerous dog shall mean, while on the owner or responsible person's property or leasehold, 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. Such pen or structure shall have a concrete floor, secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements. The owner or responsible person must comply with the requirements of section 4-11, below. A dangerous dog may only be kept on a tether according to the requirements of section 4-13(g) if it is also secured within a proper enclosure for a dangerous dog, as defined herein.

Proper impoundment period shall mean:

- (1) A healthy animal wearing a current Marion County license tag or having been implanted with a microchip, shall be impounded for a period of not less than five (5) consecutive calendar days, not counting the first day of impoundment, before the animal may be adopted, destroyed or otherwise disposed of; or
- (2) A healthy animal not wearing a current Marion County license tag or not having been implanted with a microchip shall be impounded for a period of not less than three (3) consecutive calendar days, not counting the first day of impoundment, before the animal may be adopted, destroyed or otherwise disposed of; or
- (3) A diseased or injured animal appearing to be in a suffering condition and imminently near death shall be impounded for a period of not more than two (2) hours, providing compliance with F.S. § 828.05, has been made through reasonable and concerted efforts to locate the animal's owner, owner's agent, or veterinarian; or
- (4) An animal appearing to be feral, or a community cat, shall be held for a period of at least twenty-four (24) hours, after which period Animal Services shall make a determination of whether the animal is a feral animal or a community cat. If Animal Services determines the animal is feral or a community cat, the animal may be diverted to a Shelter/Neuter/Return program.

Property owner shall mean any person, entity, business, firm, corporation, institution or enterprise that is the real property owner of record according to the Marion County Tax Collector's Office.

Public grounds shall mean any street, sidewalk, alley, highway or other way open to travel by the public, including rights-of-way, bridges, common ground including private roads in gated subdivisions, easements, tunnels, and any land owned by local, state or federal governments.

Quarantine shall mean a strict isolation imposed on animals, or premises or other defined geographic areas, to prevent the spread of disease or pests in accordance with the requirement of the State Department of Health.

Responsible person shall mean any person other than the owner of an animal who, by the exercise of care, custody or control over such animal, shall assume the liability of an owner of such animal, during the period of such care, custody or control.

Service Animal shall mean any dog or miniature horse that has been individually trained to do work or perform tasks for people with disabilities as defined under the Americans With Disabilities Act (ADA). This definition shall incorporate any future legislative, administrative, or judicial changes to the definition of Service Animal within the Americans With Disabilities Act.

Severe injury shall mean any physical injury that results in broken bones, multiple bites or disfiguring lacerations, sutures or reconstructive surgery, or any physical injury that results in life-threatening injuries or death.

Shelter shall include, but is not limited to, a permanent structure with four (4) sides, a solid roof, and a solid bottom. At a minimum, the structure must be:

- (1) Sufficient in size to allow each sheltered animal freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched in a normal posture and have an entryway that the dog or cat can easily enter and exit in a natural manner and protects the dog or cat from exposure to the elements.
- (2) Weather proof and structurally sound, with insulation appropriate to local climatic conditions and sufficient to protect each dog or cat from inclement weather; the direct rays of the sun, wind, and rain.
- (3) Free of standing water, accumulated waste and debris, and be well ventilated with fresh air by means of windows, doors, vents, or fans, and provide clean, dry bedding, or shall have a clean, solid resting place that is appropriate for the dog's or the cat's size, age, health, and physical condition.
- (4) Properly lighted to provide a regular lighting cycle of either natural or artificial light corresponding to the natural period of daylight unless otherwise directed by a veterinarian; and
- (5) Structures with wire, grid or slat floors which permit the animal's feet to pass through the openings, sag under the animal's weight or which otherwise do not protect the animal's feet or toes from injury are prohibited except for enclosures for birds where perches are provided.

- (6) Examples of inadequate shelter include, but are not limited to, lean-tos, metal drums, wire or airline carrier crates, cardboard boxes, abandoned vehicles, porches, decks, or material that does not provide sufficient protection from the elements.

Shelter/Neuter/Return shall mean sterilizing, ear tipping and vaccinating a cat large enough for spay/neuter that is found outside and returning him to his original location as opposed to admitting to a shelter.

Sterilization shall mean the irreversible spaying or neutering of an animal by gonadectomy.

Temporary task shall mean, for purposes of section 4-13(g), routine household tasks or activities of limited duration where a dog owner needs its dog to be kept outdoors during the performance of the task. Nonexclusive examples of such temporary tasks include cooking, vacuuming carpets, mopping floors, and bathing an infant. Such temporary task shall not exceed thirty (30) minutes.

Tether shall mean a cord, rope, cable or chain, not exceeding 1/16 of the animal's weight, with a length that is at least the greater of either five (5) times the length of the animal measured from the nose to the tip of its tail, or ten (10) feet, attached with a swivel hook to the animal's buckle-type nylon or leather collar, harness or halter on one end and attached to a stationary object with a swivel hook or trolley assembly on the other end. The trolley cable must not be elevated more than seven (7) feet above ground surface.

Tethering shall mean the restraining of a dog by the means of any type of tether, as defined herein, to any fixed object or structure, including, but not limited to, a house, garage, fence, post, motor vehicle, trailer, shed, weight, ground anchor, or boat. Tethering shall not include the use of a leash to walk a dog, or to forms of restraint used in the transportation of a dog.

Unprovoked shall mean that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog. [F.S. § 767.11(2)]

Working day shall mean any day of the week that the Marion County Animal Center is open for business to the public.

Sec. 4-3. - Adoption of state statutes by reference; board intent.

The board adopts by reference as a part of this chapter, all laws of the State of Florida relating to animal control, animal welfare, and animal cruelty. It is the intent of the board that this chapter shall implement and supplement the provisions of state law, and that in the event of any conflict between the terms of this chapter and state law, the state law shall control.

Sec. 4-4. - Enforcement agency designation and empowerment.

The department of animal services is designated as the county agency responsible for the proper administration and enforcement of this chapter. In carrying out the duties of this chapter the department of animal services may employ equipment, including but not limited to, control poles, nets, leashes of any construction, chemical capture devices, oleoresin capsicum aerosols, snake tongs, snake hooks, humane traps, collapsible batons, and metal carrying cages.

Sec. 4-5. - Enforcement officer's immunity.

When in good faith an animal control officer or enforcement officer enters property to perform the duties of this chapter, the enforcement officer is immune from civil liability and criminal prosecution for trespass.

Sec. 4-6. - Enforcement procedures.

- (a) An animal control officer or enforcement officer may issue a citation to a person when the officer has probable cause to believe that the person has violated a provision of this chapter or Florida Statutes. 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 violation was committed;
 - (4) The facts constituting probable cause;
 - (5) The section of the chapter that was violated;
 - (6) The name and authority of the officer;
 - (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court as may be required;
 - (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 or she shall be deemed to have waived his or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty; and
 - (11) A conspicuous statement that if the person is required to appear in court, that an option to pay a fine in lieu of appearing in court does not exist.
- (b) An animal control officer or enforcement officer may, but shall not be required to, issue a written warning prior to the issuance of a citation in incidents of violation of this chapter. Failure to comply with the provisions of a written warning may result in issuance of a citation or impoundment of the animal, or both.
- (c) An animal control officer or enforcement officer may issue an order to provide care, pursuant to F.S. § 828.073.
- (d) If a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as otherwise required, then the court may issue an order to show cause, either upon the request of animal services, or, upon its own initiative. The person shall be required by the court order to appear before the court to explain why the required appearance or action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, the person may be held in contempt of court.

- (e) Pursuant to F.S. § 828.27(4), a surcharge of five dollars (\$5.00) upon each civil penalty imposed for a violation of this chapter shall be used by the county to pay the costs for training of animal control officers.
- (f) Any person who willfully refuses to sign and accept a citation issued by an officer is guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.083.

Sec. 4-7. - Impounding authority of officers; interference prohibited.

- (a) Animal control officers shall have full and complete authority under the provisions of this chapter to pick up, catch, seize or procure:
 - (1) any animal found neglected or cruelly treated, sick, injured, or in need of immediate medical treatment where the owner refuses to or is unable to provide for such treatment;
 - (2) any animal at large, or any animal not properly confined, restrained or secured, or believed to be a stray;
 - (3) any dangerous dog not maintained in compliance with this chapter;
 - (4) any animal infected with or suspected of carrying rabies or any contagious disease;
 - (5) any animal being observed for rabies not properly quarantined;
 - (6) any animal for which probable cause has been established based on sworn affidavit, that has or is causing injury, or threat of injury to a person, endangering or chasing persons, or causing property damage to property other than that of the animal's owner;
 - (7) any female dog or cat in heat and not properly confined; or
 - (8) any dog being the subject of a dangerous dog investigation where the owner has not or cannot demonstrate an ability to securely contain the animal pending the outcome of the investigation, and cause such animal to be impounded at the Marion County Animal Center.
- (b) It shall be unlawful for any person to interfere with, obstruct, prevent, hinder or impede any animal control officer, or cause such officer to be interfered with, obstructed, prevented, hindered or impeded, while the officer is apprehending animals or performing any other duties as set forth in this chapter; or to take or attempt to take any animal from any officer or vehicle used to transport animals; or to take or attempt to take any animal from the Marion County Animal Center without proper authority.
- (c) In the event any animal control officer or enforcement officer is in pursuit of any animal not on the animal owner's property, where the animal is running at large and the officer's pursuit involves unauthorized entry into or upon any enclosed and posted land, such event shall not be prima facie evidence of the intention of the officer to commit an act of trespass.
- (d) A person shall not hold, hide or conceal any animal as to which such person knows or has reason to know that the Director or an animal control officer is investigating in relation to a violation of this chapter.

- (e) Animal control officers and enforcement officers shall have such further impoundment authority as specifically authorized by any warrant issued by a court of competent jurisdiction.

Sec. 4-8. - Licensure, exemptions, requirements.

- (a) Except as otherwise provided, every owner of a dog or cat over the age of four (4) months residing within the county shall obtain and pay Marion County for an annual or multi-year license in the amounts established from time to time by resolution of the board. Licenses shall be obtained from the Marion County Animal Center or authorized licensed veterinarians. A licensed veterinarian administering a vaccine or other shall offer a county animal license tag to the owner of such vaccinated dog or cat, and upon issuance shall collect on behalf of the county, fees established by the board. Licensed veterinarians are authorized to charge owners of vaccinated dogs and cats an additional processing surcharge of not more than ~~one~~ ten dollars (\$10.00) per county animal license tag issued, and shall remit the license fee and full account of tags issued, unused, voided or missing to the county within fifteen (15) calendar days following the end of the month in which payment was received. Veterinarians shall indicate upon the rabies certificate when an owner refuses to purchase a Marion County animal license tag.
- (b) The following classes of animals described in this subsection are required to obtain Marion County animal license tags, but are exempt from licensing fees. The owners of any exempt animal must declare, upon registration and vaccination through a licensed veterinarian in the county, the purpose and intent of maintenance under the following sub-classifications:
 - (1) Animals maintained or in training as alert status animals for visually handicapped owners, hearing-impaired owners or other physically disabled owners who own or possess specially trained aid animals.
 - (2) Dogs maintained by law enforcement officials or fire officials for law enforcement work or fire department work respectively.
- (c) Persons not issued a Marion County animal license at the time of rabies vaccination shall apply to the Marion County Animal Center for such license within ten (10) calendar days after vaccination against rabies. Evidence of a current rabies vaccination shall be by standard vaccination certificate or by confirmation from the administering veterinarian. The length of time that such license shall remain valid will be based on the date of vaccination against rabies, the duration of effectiveness of the vaccine used, and the fee paid for said license as established by resolution adopted by the board.
- (d) The licensing requirements of this chapter shall not apply to visiting dogs and cats that remain in the county for a period of not more than ninety (90) calendar days and for which the owner can provide proof of domicile outside of the county, a current rabies vaccination and any applicable registration required in the jurisdiction of alternate domicile.
- (e) The owner of a newly acquired dog or cat shall have ten (10) calendar days to obtain a license for an unregistered animal or notify the Marion County Animal Center of the change in ownership if currently licensed.
- (f) All animals required to be licensed shall wear a Marion County animal license tag at all times, unless said animal is implanted with an electronic animal identification device (microchip) provided the microchip identification code is recorded with the Marion County Animal

Center. This section shall not apply to dogs who, at the time, are engaged in hunting, training, performing in field trials, or participating in dog shows or other organized events.

- (g) No person other than a licensed veterinarian shall remove or cause to be removed from any animal, not owned by such person, an animal license tag without the expressed permission of the animal's owner for the purposes of and duration of activities involving hygiene, grooming, bathing and medical examination or veterinary procedure.
- (h) It shall be unlawful for the owner of an animal to:
 - (1) Refuse or fail to obtain a Marion County animal license for a dog or cat as required in this chapter;
 - (2) Fail to attach and display the required tag to the animal's collar or harness as provided in this chapter;
 - (3) For a person to remove a license tag from an animal not their own as provided in this chapter.
- (i) ~~Except for fees or charges for licensing, microchipping, or dangerous dog registration, t~~The Director or his/her designee may grant a waiver of a required fee or charge, anytime the owner's animal has been impounded as a direct result of a crime committed against the animal owner and the animal has been referred to the animal center by the Ocala Police Department, the Marion County Sheriff's Department, or any other law enforcement department or victim services program.
- (j) ~~Except for fees or charges for licensing and microchipping, t~~The Director or his/her designee may grant a waiver of a required fee or charge, ~~once during the animal owner's lifetime~~ for animal owners meeting the Florida Income Eligibility guideline requirements (includes Medicaid, AFDC, food stamps, Social Security Disability, WIC, AIDS Foundation, major disability/VA, pay stub with income verification, etc.) ~~as long as the impounded animal is not the subject of an animal cruelty or dangerous dog investigation under F.S. § 828.073 or F.S. Ch. 767 and this chapter.~~
- (k) The Director or his/her designee may grant a waiver of a required fee or charge for an animal owner for good cause shown.
- (kl) Community cats are exempt from licensing and microchipping.

Sec. 4-9. - Rabies vaccination required.

- (a) Every owner of a dog, cat or ferret over the age of four (4) months shall cause such animal to be vaccinated against rabies by a licensed veterinarian with a U.S. Government-approved vaccine. Every owner of such animals shall cause said animals to be revaccinated against rabies with an approved animal rabies vaccine consistent with the requirements of state law and this chapter as they may be amended from time to time. A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that, at the time, vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits.

- (b) Evidence of such vaccination against rabies shall consist of a rabies vaccination certificate NASPHV Form 51, or an equivalent form approved by the board, signed by the administering veterinarian.
- (c) It shall be unlawful for the owner of an animal or anyone having custody or care of an animal to refuse or fail to have a dog, cat or ferret vaccinated against rabies as required in this chapter. It shall be unlawful for any licensed veterinarian who has administered a rabies vaccination to dogs, cats or ferrets in Marion County to refuse or fail to issue a copy of the rabies vaccination certificate to the animal owner and the department of animal services within fifteen (15) calendar days after the end of the month in which the vaccination was administered.

Sec. 4-10. – Mandatory Microchipping.

- (a) No shelter, humane society, rescue organization, or similar organization, whether public or private, whose principal purpose is securing the adoption of dogs and cats, shall release any such animal to its owner, custodian or an adopter unless the dog or cat has first been implanted with an electronic animal identification device (microchip).
- (b) Every breeder is required to have a dog or cat implanted with an electronic animal identification device (microchip) prior to the sale of the dog or cat.
- (c) No dog or cat need be microchipped if a licensed veterinarian, exercising appropriate professional judgment, certifies in writing and under oath that an animal is medically unfit for the microchipping procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the animal's death.
- (e) It shall be unlawful for a shelter, humane society, rescue organization, or similar organization to refuse or fail to have a dog or cat implanted with an electronic animal identification device (microchip) as required in this chapter.

Sec. 4-11. - Control of animals.

- (a) It shall be the duty of every animal owner or responsible person to ensure that the animal is kept under direct humane control. Reasonable care and precaution shall be taken to prevent the animal from leaving, while unattended, the real property limits of its owner or responsible person; and the animal is:
 - (1) Securely and humanely confined within a house, building, fence, pen, or other enclosure with sufficient ventilation; or
 - (2) Humanely tethered as provided in section 4-13(g);
 - (3) Leashed under direct control by an owner or responsible person at any time it is not secured as provided in [subsections] (a)(1) or (2) of this section.
 - (4) A dangerous dog may only be kept on a tether according to the requirements of section 4-13(g) if it is otherwise secured within a proper enclosure for a dangerous dog, as defined herein.

- (b) It shall be the duty of every animal owner or responsible person to ensure that the animal is kept under direct control at all times while the animal is off the real property limits of the owner or responsible person.
- (c) Subsections (a) and (b) above shall not apply to dogs during any time in which they are engaged in hunting, or training, law enforcement work, performing field trials, participating in dog shows organized events, or in locations designated by the board as pet play areas, dog parks or exercise areas.
- (d) Animal control or enforcement officers shall have the authority to take up, confine, hold and impound any animal and which is found to be running at large or straying. The owner of such animal shall be responsible for the costs of impoundment.
- (e) It shall be unlawful for the owner of an animal or responsible person to:
 - (1) Fail to maintain direct control of an animal resulting in a bite or injury to a human being, unless such animal was reacting to a person unlawfully on its owner's property or protecting itself, its owner or keeper from an unjustified attack or assault; or
 - (2) Fail to maintain direct control of an animal resulting in an attack on another domestic animal while off the owner's or keeper's property; or
 - (3) Fail to humanely confine a female dog or cat in heat (estrus) in a properly ventilated building or secure enclosure with a top so as to make it inaccessible to any male dog or cat, except for controlled and intentional breeding purposes. The animal may not be walked off the owner or responsible person's property or leasehold during this time.
 - (4) Fail to adequately confine quarantine animals from other animals and ensure minimal contact with people. The animal must be leashed and under direct control of a competent person over the age of 18 who is able to restrain the animal when outside for exercise or relief; and shall not be allowed to leave the property except to receive emergency veterinary care.
- (f) All livestock shall be controlled by utilizing fencing or enclosures which shall meet the livestock fencing minimum requirements.
- (g) This section does not apply to community cats.

Sec. 4-12. - Domestic animals creating a nuisance.

- (a) Without regard to knowledge, intent, or culpability, an owner shall prevent a domestic animal from becoming a nuisance. The department of animal services may impound a domestic animal creating a nuisance. A nuisance includes but is not limited to:
 - (1) A domestic animal that trespasses on public or private property;
 - (2) A domestic animal that causes damage to another person's property;
 - (3) A domestic animal that creates a danger to the public health or safety;
 - (4) A domestic animal that disturbs or turns over garbage containers;
 - (5) A domestic animal that chases or molests vehicles, bicycles, persons, or animals;

- (6) A domestic animal that displays a menacing or threatening behavior; or
- (7) A domestic animal that defecates on public or private property other than the owner's property.
- (8) A domestic animal that runs at-large on more than one occasion within a 30 day period.
- (b) Domestic animals creating noise disturbances.
 - (1) Any animal barking, whining, howling or making objectionable noises that can be clearly heard beyond the boundaries of the owner's property and that continues for a minimum continuous period of thirty (30) minutes may be considered a nuisance. In making a determination whether to cite an animal owner for a nuisance based on a noise-related disturbance, the animal control officer shall exercise his or her sound discretion, based on the totality of the circumstances and upon the standard of a "reasonable objective complainant" in such circumstances.

~~(a) It shall be unlawful for the owner, or any person having temporary custody, of an animal or animals to permit the animal(s), either willfully or through failure to exercise due care or control, to commit a nuisance by running at large habitually; by chasing or running after vehicles or persons habitually; by trespassing upon public or private school grounds habitually; by trespassing upon private property habitually and interfering with the reasonable use and enjoyment of the property; by barking habitually, or by making other objectionable animal noises habitually; or by doing any other thing habitually which is so offensive as to create a nuisance.~~

~~(b) For the purpose of this Section, "habitually" means at least two separate occurrences within a time period of no more than one month; except that barking habitually, or making other objectionable animal noises habitually, means making the sound persistently or continuously for at least 30 minutes occurring at least three separate times within a period of no more than eight hours. For the purposes of this Section, "persistently" or "continuously" shall mean nonstop utterances for 30 consecutive minutes with interruption of less than 30 seconds at a time during the 30 minute utterances.~~

~~(c) The animal control officer may cite the owner or any person having custody of such animal(s) for violation of this Section when either the citing animal control officer has witnessed the commission of such habitual nuisance or the animal control officer has received at least one sworn affidavit from each of at least two unrelated adult witnesses from different residences so that taken together, the affidavits attest to the committing of a nuisance pursuant to this Section.~~

~~(d) A subsequent violation of this Section occurring ten or more business days after a previous citation for violation of this Section shall be considered a separate and distinct violation.~~

- (2) The prohibition against barking habitually, or making other objectionable noises habitually shall not apply between the hours of 7:00 a.m. and 10:00 p.m. to commercial boarding kennels which are in compliance with the Marion County Land Development Code.

- (3) This subsection shall not apply to domestic animals on land zoned for agricultural purposes.
- (c) An owner of any animal, upon the death of such animal, shall dispose of the carcass by burying the carcass at a sufficient depth, of at least two (2) feet below the surface to prevent predators from exhuming the carcass, or by recognized alternate methods of disposal such as cremation, or rendering. An owner shall not dispose of the carcass of any animal by dumping such carcass on any public or private property.
- (d) A subsequent violation of this Section occurring ten or more business days after a previous citation for violation of this Section shall be considered a separate and distinct violation.

Sec. 4-13. - Humane treatment for animals.

- (a) An owner or responsible person shall provide humane care and treatment to an animal. Humane care includes but is not limited to providing adequate food, adequate water, adequate shelter, adequate space, and veterinary care to maintain health and to prevent or cure diseases.
 - (1) Adequate food means food which 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, is prepared so as to permit ease of consumption for the age, species, condition, size, and type of each animal, 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, age, and condition of the animal, which is at least once daily except as prescribed by a veterinarian.
 - (2) Adequate water means clean, fresh, potable water. The owner shall ensure that adequate water is 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.
 - (3) Dogs regularly kept outdoors must be provided with adequate shelter. 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, direct sunlight, other weather elements, adverse effects of heat or cold, physical suffering, and impairment of health.
 - (4) Adequate space means space that allows an animal to easily sit, stand, lie down, turnabout, and make other normal body movements in a comfortable, normal position for the animal. The owner or responsible person shall ensure adequate space exists so an animal can interact safely with other animals in the enclosure, unless specified by a veterinarian. Nothing precludes veterinary care that temporarily restricts movement if it would endanger an animal.
- (b) It shall be unlawful for a person to abandon any animal, dispose of any animal on the property of another or on public property, or to leave behind any animal when relocating to a new residence. The return of a community cat to the location at which it was found, or another

designated place, subsequent to sterilization and vaccination shall not be considered to be abandonment.

- (c) It shall be unlawful for any person to entice or lure an animal out of an enclosure, or off the property of its owner, harbinger or keeper.
- (d) It shall be unlawful for any person to molest, torment, torture, abuse, assault, or tease an animal.
- (e) No person other than a licensed veterinarian shall crop the ears or dock the tail of any dog. If a person possesses a dog with an ear or ears cut off or cropped, or tail docked, and with the unhealed wound, then that possession is prima facie evidence of a violation of this section, unless the cropping or docking was performed by a veterinarian.
- (f) No person other than a licensed veterinarian shall castrate a domestic cat or dog.
- (g) The unsupervised, unattended outdoor tethering of a dog is prohibited except as provided herein:
 - (1) The dog must be in visible range of the owner or responsible party, which person must also be outside with the dog at all times. 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 while such owner or responsible person performs a temporary task indoors. In no event may the owner or responsible person leave the premises while a dog is left tethered, unattended, outdoors. A dog may never be left tethered and unattended on vacant or abandoned property.
 - (2) Any tether must be of sufficient strength to prevent escape.
 - (3) The tether must be attached to the 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 prevent entanglement with other objects and/or animals.
 - (4) 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.
 - (5) The foregoing provisions regarding tethering do not apply to a lawful animal event, veterinarian treatment, grooming, training, or law enforcement.
 - (6) The provisions of subsection (1) above, do not apply to dogs that are kept or used on lands being 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)].

Sec. 4-14. - Animals in motor vehicles or vessels.

- (a) It shall be a violation of this chapter for a motor vehicle or vessel operator to place or confine an animal or allow it to be placed, confined or to remain in an unattended motor vehicle or

vessel 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 adverse effects of the elements, including but not limited to, excessive heat, lack of water or such other circumstances as may be reasonably expected to cause suffering, disability or death.

- (b) Any animal control or enforcement officer who finds an animal in a motor vehicle or vessel which appears to be suffering due to adverse effects of the elements may enter the motor vehicle or vessel by using the amount of force which is reasonably necessary to remove the animal. The officer removing the animal shall take said animal or have said animal delivered to the Marion County Animal Center or to a veterinarian if the animal is deemed to be in distress. In the event the motor vehicle or vessel operator cannot be located, the officer shall leave in prominent place in or on the motor vehicle or vessel a written notice bearing the name of the officer, his department's name and telephone number. In addition, the officer shall notify the department of animal services with all pertinent information regarding the incident, including the circumstances under which the animal was taken, and where and when the animal was taken. At the discretion of the investigating officer, the animal may be held while the officer pursues charges of cruelty or may be surrendered to the owner or agent of the owner if the owner or agent claims the animal within the proper impoundment period, demonstrates the ability to provide secure and humane shelter for the animal, and pays all fees and costs accrued for the maintenance of the animal. If the owner does not claim the animal within the proper impoundment period the animal impoundment center having custody of the animal shall provide for the animal to be adopted or otherwise dispose of the animal as deemed necessary.

Sec. 4-15. - Establishing an Animal Abuser Registry.

- (a) This section shall be known as "Molly's Law." Marion County shall establish a publicly-accessible on-line Animal Abuser Registry that shall contain the names and residence information of all registered Animal Abuse Offenders in unincorporated Marion County or in any incorporated municipality in Marion County that has elected to participate in the Registry by inter-local agreement, who have been convicted of an Animal Abuse Crime in Marion County, as defined herein, on or after the effective date of this ordinance. The on-line Registry will be administrated and maintained on the Marion County web page or some other such similar place as the County Administrator deems appropriate. However, as an alternative to County administration and maintenance of the Registry, the county administrator is authorized to develop an agreement with a responsible third-party administrator for on-going administration and maintenance of the Registry, to be approved by the Board. The entity responsible for maintenance of the registry will be hereafter referred to as the Maintaining Agency.

The on-line Animal Abuser Registry may also contain links to other county Animal Abuser Registries that are available, or as they become available in the future, in the state of Florida, with such other county registries to be used as informational resources by animal shelters, pet sellers, or other persons or entities located in unincorporated Marion County who sell, exchange, or otherwise transfer the ownership or possession of any animal.

- (b) The Registry shall contain the required information about each Animal Abuse Offender for the following periods: following his or her release from incarceration or, if not incarcerated, from the date of the judgment of conviction: For a first conviction of a misdemeanor Animal Abuse Crime – 3 years; for a first conviction of a felony Animal Abuse Crime – 5 years; for a subsequent conviction of either a misdemeanor or felony Animal Abuse Crime, 10 years. Upon notification to the Maintaining Agency of a successful appeal of a conviction of an Animal Abuse Crime by an individual that has been required to register pursuant to this ordinance, the registration information for that individual shall be removed from the Marion County Animal Abuser Registry within ten (10) business days following notification. It shall be the responsibility of the Offender to initiate removal of his or her name from the Registry by providing verified documentation to the Maintaining Agency of grounds for removal.
- (c) Any person convicted in either the circuit court in and for or the county court of Marion County, Florida, of an Animal Abuse Crime, in addition to any fine and other penalty provided by law, there shall be imposed a court cost, for maintenance of the Marion County Animal Abuse Registry, in the amount of one-hundred twenty-six dollars (\$126.00) or, in the judge's discretion, a greater amount not to exceed the fine authorized for the violation. Such cost shall be imposed in each case unless waived by the judge. The clerk shall collect the court cost, unless waived, and forward it to the Maintaining Agency to be used for the administration and maintenance of the Registry. The clerk shall retain one dollar (\$1.00) of each one-hundred twenty-six (\$126.00) collected as a service charge of the clerk's office.
- (d) When a person is convicted of an Animal Abuse Crime in Marion County (herein, an "Offender"), the prosecuting agency shall forward to the Marion County Sheriff's Office and to Maintaining Agency the name and address of the convicted person, along with the name of the Animal Abuse Crime the person was convicted of, thereby notifying the Sheriff's Office and the Maintaining Agency that the person is required to be placed on the Animal Abuser Registry. The role of the Sheriff's Office is to photograph the offender, and to obtain and record the following information, and to transmit such information to the Maintaining Agency for inclusion in the Animal Abuser Registry:
- (1) Their name and any aliases or other legal names they have been, or may be known by;
 - (2) Their residence address;
 - (3) Their date of birth; and
 - (4) A photograph of the front of their head and shoulders not less than 2" x 3" or a digital image commonly known as a digital photograph of the front of their head and shoulders.
 - (5) A written description of any visible tattoos on the face, neck or arms of the Animal Abuse Offender.

By agreement with the Clerk of the Court, the sentencing judge, and the Sheriff's Office, the forgoing information may be obtained from the Offender in court, at the conclusion of the sentencing hearing. Otherwise, the Offender shall be required to report to the Marion County Sheriff's Office within ten (10) days from the date of sentencing, to be photographed and provide the above-required information.

- (e) Every person placed on the Animal Abuser Registry shall annually report to the Maintaining Agency whether their residence address has changed, and if so, the new address. This report shall be submitted on a form to be provided by the Maintaining Agency, along with a check or money order payable to the Maintaining Agency in the amount of \$10.00. Every Offender shall also be required to contact the Maintaining Agency to update their Registry information within ten (10) calendar days of any change of residential address and/ or upon any official change of name.
- (f) If not required by the judgment of the Court adjudicating the Offender guilty of an Animal Abuse Crime, every person placed on the Animal Abuser Registry shall pay a one-time fee of one hundred twenty-five (\$125.00) dollars to the Maintaining Agency. All such fees shall be used to help pay the administrative and maintenance costs of maintaining the Registry.
- (g) Any person placed on the Animal Abuser Registry shall be subject to the following prohibitions while on the Registry:
 - (1) The Offender shall not be allowed to own, or possess, or live in the same home with any animal, including any companion animal, unless otherwise provided in a court order.
 - (2) The Offender shall not be allowed to work with animals, including companion animals, with or without compensation, unless otherwise provided by court order.
 - (3) The County reserves the right and may exercise its right at any time it deems necessary to enforce, or, notwithstanding any other court order, to seek a court order enjoining an Offender from owning or possessing or living with an animal or working with a companion animal while on the Registry.
- (h) No person or entity located in Marion County shall knowingly sell, exchange, or otherwise transfer the ownership or possession of any animal to any person they know to be listed on the Animal Abuse Registry, nor to any individual residing at the address of a person listed on the Registry, nor shall such Offender be allowed to retain possession of any currently owned animals, as of the date of his or her conviction of an Animal Abuse Crime. Prior to the sale, exchange, or other transfer of ownership of any animal, all Pet Sellers in Marion County are required to examine the Animal Abuser Registry to confirm that the name of the potential owner of the animal is not listed, as well as to confirm that the purchaser of the animal does not reside at a listed address for any individual on the Animal Abuse Registry. Upon request from a Marion County Animal Control officer, the Pet Seller shall provide proof by affidavit or otherwise, that it confirmed that the transferee of the animal was not listed on the Animal Abuser Registry at the time of the transfer. This prohibition does not apply to Farm Animals for farmers, nor to Service Animals for people with disabilities.
- (j) Penalties Related to Animal Abuser Registry.
 - (1) Any Animal Abuse Offender who violates the prohibition against possessing, owning, adopting, or purchasing an animal – except for Farm Animals for farmers, Service Animals for people with disabilities – shall be guilty of a non-criminal

infraction and be fined not to exceed \$500.00. The Offender shall also be subject to a mandatory court appearance (MCA) wherein the County may seek forfeiture of any animal found in possession or custody of the Offender.

(2) Any individual or entity that violates subsection 4-15(h) shall be guilty of a violation and shall be subject to a fine not to exceed \$500.00. However, for a first violation of subsection 4-15(h), the violator shall receive only a warning citation along with a notification that subsequent violations will result in a fine. It shall not be a violation of this ordinance if the Pet Seller examined the Marion County Animal Abuser Registry before the sale, exchange, gift or transfer of possession, and the name and address of the potential owner did not appear thereon.

(3) Any Animal Abuse Offender who violates subsections 4-15(d) or 4-15(e) shall be guilty of a violation and shall be subject to a fine not to exceed \$500.00.

Sec. 4-106. - County to maintain list of persons presently enjoined from possessing animals.

- (a) A publicly accessible list of all persons enjoined by order of the County Court from owning any animal, whether temporarily or permanently, shall be maintained by the County Department of Animal Services.
- (b) The list shall include:
 - a. The enjoined person's name,
 - b. The enjoined person's address,
 - c. The restriction the County Court has placed on the person, and
 - d. The expiration date of the Court order.
- (c) No additional information may be placed on this list.
- (d) Upon production of a court order releasing or modifying an injunction, the County shall remove information for that individual from the list within five (5) business days following notification.
- (e) Upon the expiration of the Court Order, the County shall remove information for that individual from this list.

Sec. 4-167. - Impoundment, redemption and adoption.

- (a) The department of animal services may place animal trapping cages on private property, with the occupant's or property owner's permission, or on public property within the unincorporated county. An animal trapped or confined shall be in the custody of the department of animal services, and it shall be unlawful for any person to remove, disengage, release, relocate, alter, damage or destroy or cause to be removed, disengaged, released, relocated, altered, damaged or destroyed, any trapping cage placed by the department of animal services, or any animal confined therein.

- (b) Any animal impounded at the Marion County Animal Center shall be maintained in accordance with the following provisions and additional policies adopted by the board by resolution:
- (1) In the event any impounded animal not classified as dangerous or being held as the subject of a dangerous dog or cruelty investigation is properly identified by the legal owner or authorized agent of the owner, the animal shall be released to the owner or agent upon payment of all fees as established by the board and all fees incurred by the county on behalf of the impounded animal for the provision of proper care and confinement, providing that concurrence of the county public health unit director or designated representative has been obtained for the release of any animal with rabies or believed to be infected with rabies. In the case of any animal impounded because of a dangerous dog investigation, such animal may be released to the owner according to the requirements of section 4-202.
 - (2) In the event any impounded animal is not claimed prior to the expiration of the proper impoundment period, the department of animal services may release, adopt, destroy or otherwise dispose of such animal in accordance with the established laws, rules and regulations and the policies of the board, without any compensation being paid to the owner, providing that concurrence of the county public health unit director or designated representative has been obtained for the release of any animal with rabies or suspected to be infected with rabies.
 - (3) All dogs and cats being adopted, redeemed or sterilized from the department of animal services shall be implanted with an electronic animal identification device (microchip) for positive identification and be registered with the department of animal services database prior to release, and the department shall collect the applicable fees for such services.
 - (4) All dogs and cats having completed rabies quarantine shall be implanted with an electronic animal identification device (microchip) for positive and permanent identification as a condition of quarantine release. All fees for such services shall be the owner's responsibility.
 - a. Animals quarantined at the Marion County Animal Center shall be implanted with an electronic animal identification device prior to being released to the owner.
 - b. Animals not quarantined at the Marion County Animal Center shall within ten (10) calendar days from the release of quarantine be implanted with an electronic animal identification device (microchip) by a veterinarian of the owner's choice or the department of animal services.
 - c. It shall be unlawful to not have an animal implanted with an electronic animal identification device (microchip) after quarantine.
 - (5) No live dog or cat shall be released to any entity, business, firm, corporation, institution or enterprise for biomedical research, teaching or experimental purposes.
 - (6) All owners shall have the right to schedule a visitation of their animal, subject to reasonable limitations on staff availability, at the Marion County Animal Center not more often than three (3) days per week and not to exceed fifteen (15) minutes per day, with

the exception of animals that have been impounded as a result of an attack on a human, or where pursuant to determination of a licensed veterinarian, visitation is not advisable. In those cases, no visitation shall be permitted.

Sec. 4-178. - Location of sale of dogs and cats.

- (a) Any sale, exchange, or transfer of possession or ownership to another person, of dogs and cats, to include puppies and kittens, are prohibited on any public or private streets and rights-of-way, within 50 feet of any right-of-way, at any flea market, or private parking lots or any open air venue, such as, but not limited to, parades, concerts, and festivals.
- (b) No new pet shop shall offer for retail sale dogs or cats in Marion County, unless that dog or cat was obtained from:
 - (1) An animal shelter;
 - (2) A Animal Rescue Organization.
- (c) All lawfully operating pet shops in existence, on or before the effective date of this ordinance, shall be permitted to continue the retail sale of dogs and/or cats in Marion County in accordance with their respective business models, provided, however, each existing pet shop is at all times in full compliance with any and all existing and future retail sale regulations adopted by the County for existing pet shops and provided they are in compliance with the applicable provisions of this section and the additional restrictions set forth below:
 - (1) An owner of an existing pet shop shall be required to initially register for the grandfather privilege, by complying with the registration requirements set forth, within 30 days of the effective date of this section.
 - (2) An owner of an existing pet shop shall not be permitted to transfer, assign or sell their existing pet shop.
 - (3) An owner of an existing pet shop shall not be permitted to open any additional pet stores as of the effective date of the ordinance. Any pet shop opened after the adoption date of this section shall be considered a new pet shop and said owner shall be obligated to fully comply with the adoption-based business model for the retail sale of dogs and/or cats and all other requirements prescribed for all new pet shops in the County.
 - (3) An owner of an existing pet shop that allows any of their Federal, State, and/or local occupational business licenses, or other requirement/s related to the operation of their business, to lapse, making them legally ineligible to operate their business, or voluntarily abandons their respective retail sale business model, for a period of more than 30 days, shall lose their grandfather privilege of reopening and operating in its usual manner and shall be obligated to fully comply with the adoption-based business model for the retail sale of dogs and/or cats in the County and all other requirements pertaining thereto.
 - (4) An owner of an existing pet shop who has any final determination or adjudication of one or more violations of any Federal or State administrative rule, regulation, or statute administered or enforced by the United States Department of

Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other county or State agency with jurisdiction, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere, shall lose their grandfather privilege and shall be obligated to fully comply with the adoption-based business model for the retail sale of dogs and/or cats and all other requirements prescribed for all new pet shops in the County.

(5) An owner of an existing pet shop shall have the following information readily available for all potential purchasers, Marion County Animal Services and the State:

- a. The name of the breeding facility where the dog and/or cat was bred; and
- b. The city and state of the dog's and/or cat's breeding origin.
- c. Specific contact information for the breeder of the dog and/or cat may be provided at the discretion of the pet shop to its potential purchasers, however, this information is required to be provided to Marion County Animal Services upon request.
- e. A sign, in poster format, shall be placed in the existing pet shop, in clear view, stating that the information required above is available for review by all potential purchasers, Marion County Animal Services, and the State upon request.

(6) An owner of an existing pet shop owners shall only purchase dogs and/or cats that are intended to be sold to potential purchasers from breeders:

- a. That have not received any State law or county violations in the past two years of any Federal, State administrative rule, regulation, or statute administered or enforced by the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services, or any other county or State agency with jurisdiction, whether administrative, civil, or criminal, including, but not limited to, any consent decree, final agency order, court order, verdict, plea of guilty or plea of nolo contendere,

(7) At the time of registration, all owners of existing pet shops shall inform Marion County Animal Services of all dogs and/or cats that are available for retail sale and were acquired, before the effective date of the ordinance from which this section was derived, from breeders who do not meet the buying standards above. Those dogs and/or cats may be sold by the existing pet shop, however, after the effective date of this section, all dogs and/or cats that will be available for retail sale by the existing pet shop must be acquired from breeders who meet the buying standards.

(8) All pet shops shall be inspected by Animal Services on a quarterly basis to ensure compliance with this section and any other applicable ordinance sections.

(b~~d~~) Humane organizations and government agencies are exempt from subsection (a)-(c).

Sec. 4-19. - Requirements for sales of dogs and cats.

(a) Before a dog is offered for sale it shall receive from a veterinarian vaccines and anthelmintics against the following diseases and internal parasites:

- (1) Canine distemper.
- (2) Leptospirosis.
- (3) Bordetella (by intranasal inoculation or by an alternative method of administration if deemed necessary by the attending veterinarian and noted on the health certificate, which must be administered in this state once before sale)
- (4) Parainfluenza.
- (5) Hepatitis.
- (6) Canine parvo.
- (7) Rabies, if the dog is four (4) months of age or older and the inoculation is administered by a veterinarian.
- (8) Roundworm.
- (9) Hookworm.

Each dog over six (6) months of age shall be tested for heartworm before being offered for sale.

(b) Before a cat is offered for sale it shall receive from a veterinarian vaccines and anthelmintics against the following diseases and internal parasites:

- (1) Panleukopenia.
- (2) Feline viral rhinotracheitis.
- (3) Calici virus.
- (4) Rabies, if the cat is four (4) months of age or older and the inoculation is administered by a veterinarian.
- (5) Hookworm.
- (6) Roundworm.

Each cat shall also be tested for feline leukemia virus and feline immunodeficiency virus (FIV) before being offered for sale.

(c) The tests, vaccines, and anthelmintics shall be administered prior to the dog or cat being offered for sale, unless a veterinarian certifies on the official certification of veterinary inspection that to vaccinate or deworm the dog or cat is not in the best medical interest of the dog or cat, in which case the vaccine or anthelmintic may not be administered to that particular dog or cat.

(d) If the dog or cat is under four (4) months of age, the tests, vaccines, and anthelmintics required by this section shall be administered no more than twenty-one (21) days before sale within the County. If the dog or cat is four (4) months of age or older, the tests, vaccines, and

anthelmintics required by this section shall be administered at or after three (3) months of age, but no more than one (1) year before the sale.

(e) All dogs and cats sold in the County shall have a microchip implanted prior to sale. The seller shall register the microchip with the national registry associated with the microchip and shall provide the microchip number and other identifying information to the Department of Animal Services. The seller shall also notify the Department of Animal Services and the applicable national registry within 48 hours of the sale of the dog or cat and shall provide the name, address, and telephone number of the new owner of the dog or cat.

(1) No dog or cat need be microchipped if a licensed veterinarian, exercising appropriate professional judgment, certifies in writing and under oath that an animal is medically unfit for the microchipping procedure because of a physical condition which would be substantially aggravated by such procedure or would likely cause the animal's death.

(f) It shall be unlawful for a shelter, humane society, rescue organization, or similar organization to refuse or fail to have a dog or cat implanted with an electronic animal identification device (microchip) as required in this chapter.

(g) Each dog and cat shall be accompanied by an original current official certificate of veterinary inspection with the corresponding microchip identification for that animal at all times while being offered for sale within the County. The buyer shall receive the original certificate. Copies of these certificates shall be held by the seller and the veterinarian for a period of three (3) years.

(h) The examination of each dog and cat by a veterinarian shall take place no more than thirty (30) days before the sale within the County.

(i) No person may offer to sell or transfer any dog or cat that is less than eight (8) weeks of age.

Sec. 4-1820. - Community cat initiative.

The county acknowledges that there is currently a strong need to address issues presented by feral, free-roaming, and other community cats. To that end, it recognizes the need for multi-tiered programs that not only work to address the issues of feral, free-roaming, and other community cats, but also the need to educate and bring awareness to cat caregivers to stabilize populations of colonies. Therefore, this section establishes the following requirements:

- (1) A no cost community cat caregiver certification program will be developed and maintained to educate people about community cats, the importance of a veterinary provider relationship to best address community cat needs, common disease(s) and proper care, good management practices, and maintenance of the community cats.
- (2) All cats that are part of community cat management programs must be sterilized, vaccinated against the threat of rabies, and ear-tipped (preferable on the left ear) for easy identification; if these requirements are met, the community cat is exempted from licensing, stray, at-large and other provisions of this section that apply to owned animals.

- (3) Community cat caregivers should provide certain necessities on a regular/ongoing basis, including, but not limited to, proper nutrition and medical care as needed.
- (a) Food shall be provided in the proper quantity for the number of cats being managed and is to be supplied no less than once per day. Food must be maintained in proper feeding containers.
 - (b) Water, if supplied, must be clean, potable and free from debris and algae.
 - (c) The feeding of community cats should take place primarily during daylight hours to minimize the risk of domestic-wildlife interactions that have increased potential of rabies exposure for the cats. Any food provided after daylight hours shall only be provided for such time required for feeding, and no longer than 30 minutes, after which it shall be removed.
 - (d) Feeding outdoors is only allowed when an appropriate amount of food for daily consumption of the cat(s) being cared for is provided. Food must be appropriately placed in sanitary containers sufficient for the cat being fed. Automatic feeders that are properly maintained and secured may be used to dispense daily food rations and may be present during night hours.
 - (e) Dumping excessive quantities of food on the ground, placing excess quantities in bowls or other containers and leaving open food packages is prohibited.
 - (f) If shelter is provided, it shall be unobtrusive, safe, and of the proper size for the cat(s).
- (4) Community cat caregivers must feed only on their property or with the permission of another landowner (city, state or federal public property).
- (5) Community cat caregivers shall not be deemed to own, have custody, care or control of community cats.
- (6) Community cat caregivers may redeem community cats from the shelter without proof of ownership and are exempt from charges and/or fees.

Sec. 4-1921. - Spay/neuter program.

Florida Statute § 823.15 expresses a determination of the Florida Legislature that uncontrolled breeding of dogs and cats leads to unwanted animals, strays, animal suffering, destruction of animals at great expense to the community constituting a nuisance and public health hazard. The board of county commissioners hereby finds that:

- (1) Marion County is committed to finding humane and cost effective means of reducing the production of unneeded and unwanted puppies and kittens by:
 - a. Assuring compliance with the Florida State Statute providing the sterilization of all adopted and rescued domestic animals prior to their release from Marion County Animal Center. [F.S. § 823.15(2)(a)]

- b. Providing subsidized targeted spay/neuter services to the pets of Marion County citizens by means of the neuter commuter and offering public surgery services within the Marion County Animal Center. Targeted groups include:
 - i. Income qualified pet owners.
 - ii. Community cats
 - iii. Large breed dogs
 - iv. Pets in high intake areas
- c. Partnering with Animal Rescue Organizations to help meet their spay/neuter obligations.
- d. Providing licensed veterinarians to perform these services.

Sec. 4-202. - Damage by dogs; classification of dangerous dogs.

- (a) Marion County adopts by reference as a part of this chapter all of F.S. Ch. 767, as the same may be amended from time to time. In the event of a conflict between F.S. Ch. 767, and this chapter, the provisions of the statute shall control. The procedures of this chapter also provide regulations supplemental to F.S. Ch. 767.
- (b) The department of animal services shall investigate reported incidents involving any dog that may be dangerous and, if possible, shall interview the owner and require a sworn affidavit from any person with personal knowledge of the facts asserted therein, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.
- (c) The animal control officer shall attempt to obtain a current, valid address of the owner during such investigation, including requiring the owner to provide the owner's correct current street address and phone number and any other contact information of the owner, such as email addresses, which the county may use for all future notices and communications with the owner. The owner shall further advise the animal control officer of the address at which the animal resides, if different from the address of the owner. If the owner refuses to provide such information to the animal control officer, the animal control officer shall make a notation of such refusal in the investigation file, and shall advise the owner that such refusal shall be deemed to be a waiver of any claim of lack of notice as to future proceedings or communications from the county. If the owner is currently transient or otherwise has no current street address, it shall be the responsibility of the owner to physically come to the animal services center once every five (5) days to pick up any notifications that relate to the owner.
- (d) Possession of dog while investigation is pending
 - (1) The animal control officer shall be authorized to pick up and impound a dog if probable cause is established as provided in section 4-7.
 - (2) Upon demonstration to the animal control officer that the owner is able to humanely and safely confine the animal in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section, the owner shall, in most cases, be permitted to retain custody of the dog,

or obtain release of the dog from the animal services center, upon payment of any applicable fees and charges.

- (3) In exceptional cases, notwithstanding receipt of evidence regarding the owner's ability to safely confine the dog, the department of animal services may obtain or retain custody of the dog based on the determination of the animal control officer, based on first hand observations, that the release of the dog to the owner presents an unreasonable risk to the public.
- (e) After the investigation, the Director shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous or impose a penalty and shall afford the owner an opportunity for a hearing prior to issuing a final order. The Department of Animal Services shall provide written notification of the sufficient cause finding and the Director's proposed classification and penalties to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of Chapter 48, F.S., relating to service of process, to the address previously provided by the owner. The owner may file with the Director, at 5701 SE 66th Street, Ocala, FL 34480, a written request for a hearing within 7 calendar days after the date of receipt of the notification of the sufficient cause finding. The owner's request for hearing shall, even if previously given as provided above, state the owner's correct current street address, phone number, fax number, and, if available, email address, where the owner agrees to receive notices of hearing, and other communications from the Department of Animal Services. If requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than 10 calendar days after receipt of the request from the owner.
 - (f) The Director shall mail a notice of hearing to the owner by certified mail at the mailing address shown on the owner's request for hearing. The notice of hearing shall advise the owner that, **if a person decides to appeal any decision made by the Director as a result of the hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.** If a facsimile number or email address has also been provided by the owner, the notice shall also be provided by those means as well. Failure of the owner to receive either facsimile or email notice shall not however be deemed to be insufficient notice where the notice of hearing has been properly addressed, and sent by certified U.S. mail for delivery to the owner. The Director shall see that the mail notice of hearing is mailed at least seven (7) calendar days before the hearing. The notice shall specify the date, time, and location of the hearing. Proof by affidavit of the mailing of such notice, as provided for herein, shall be deemed to be prima facie evidence of sufficient notice of hearing. The Director or the dog classification board, as provided below, shall conduct the hearing on or after the eleventh day and on or before the twenty-first day after receipt of the request. If the owner fails to timely request a hearing, the owner shall be deemed to have waived his or her rights to contest the dangerous dog classification or any penalty imposed under this section. The Director's initial determination that the dog be classified as a dangerous dog or that a penalty be imposed shall become final, by operation of law without requirement for a hearing.

- (g) The board of county commissioners may, by resolution, create a dog classification board, comprised of five (5) appointed members and one alternate, for the purpose of conducting hearings and presenting recommended orders to the Director prior to the final determination.
- (1) Each county commissioner shall appoint one member to the dog classification board, and the chair, with the concurrence of a majority of the other county commissioners shall also appoint the alternate member. The dog classification board shall be comprised of members who do not currently sit on any other elected or appointed board in Marion County, and who, to the extent such are available for appointment, demonstrate by training, education, experience or employment, both an interest in animal welfare and control, and the objectivity and demeanor to fairly hear dog classification cases. The dog classification board, as provided for herein, shall be established within sixty (60) calendar days of the effective date of the ordinance from which this chapter derives, and upon its creation, shall replace the current dog classification board.
 - (2) The nature of the hearing before the dog classification board shall be an informal adversarial proceeding in which formal rules of evidence do not apply. The parties may be represented by counsel at their own expense, and shall be afforded the opportunity to present evidence, and to cross-examine adverse witnesses. Witness testimony shall be given under oath. It shall be the responsibility of the owner to ensure the preparation of a verbatim transcript of the hearing in the event the owner desires to appeal the final determination in the case. Following the hearing, the dog classification board shall transmit a recommended order to the Director. The recommended order must recite the essential findings of fact and conclusions of law upon which the recommendation is based. The recommended order must be supported by competent, substantial evidence on the record of the hearing. Hearsay evidence shall be admissible in the hearing, but a finding of fact may not be based solely on hearsay evidence. The owner shall be permitted to submit to the Director an alternate recommended order, with citations to the record supporting his or her position. The Director shall have the discretion, on a given case, to forego the procedure of the dog classification board, and personally convene a hearing using the foregoing procedural rules, before entering a final written decision.
- (h) Following the hearing or by operation of law, the Director shall render a written final order. The order shall be deemed rendered when it is filed with the Clerk of Court in County Commission Records. The Director shall have the discretion to not adopt the Recommended Order if it is not supported by competent substantial evidence, or, if the Director cites to other compelling substantial evidence that justifies a different result. The Director shall provide a copy of the final order to the owner by regular U.S. Mail delivery at the address previously provided by the owner if the decision is that the dog is not found to be dangerous. In the event that the final decision is that the dog is a dangerous dog, that decision shall be the classification of the dog as a dangerous dog, and shall be delivered to the owner in accordance with paragraph (i), below. An owner with no mailing address shall make arrangements to physically come and pick up the written decision from the Department of Animal Services.
- (i) The Director shall provide a written final order to the owner by registered mail, certified hand delivery or service to the address provided by the owner's request for hearing. The owner may appeal the classification, penalty, or both within 30 calendar days after receipt of the final order by petition for certiorari to the circuit court in accordance with the Florida Rules of

Appellate Procedure. If the dog is not held by the Animal Services Department, the owner must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. In exceptional cases, notwithstanding receipt of evidence regarding the owner's ability to safely confine the dog, the Animal Services Department may obtain or retain custody of the dog based on the determination of the animal control officer, based on first hand observations, that the release of the dog to the owner presents an unreasonable risk to the public. If the final order recommends destruction, the dog shall not be destroyed for 30 calendar days after the owner receives the final order, unless the owner waives the right to appeal to the Circuit Court in writing. If the owner files a written appeal to the Circuit Court within 30 calendar days, the dog may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

- (j) The animal services department may not classify a dog as dangerous or impose a penalty if an attack occurred while the person alleged to have been attacked was unlawfully on the property of the dog's owner.
- (k) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member. No dog may be declared dangerous if the dog was protecting or defending a human being ~~or another animal including livestock~~ within the immediate vicinity of the dog from an unjustifiable attack or assault.
- (l) Within fourteen (14) calendar days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, the owner of the dog shall obtain a certificate of registration for the dog from the department of animal services, upon payment of any and all fees established by the board, and annually thereafter renew the certificate of registration upon payment of any and all renewal fees. Only a person who is at least eighteen (18) years of age, and presents the following evidence, may obtain the certificate of registration for a dog classified as dangerous:
 - (1) A current certificate of rabies vaccination signed by a licensed veterinarian for the dog.
 - (2) A current county animal license for the dog.
 - (3) Proper enclosure for the dog classified as dangerous as defined in this chapter.
 - (4) The posting of the confinement property with clearly visible warning signs at all entry points that inform both children and adults of the presence of a dangerous dog on the property. Signs may be obtained from the department of animal services, upon payment of any and all sign fees established by the board of county commissioners, which signs shall include the words, "Warning: Dangerous Dog." [F.S. § 767.12(5)(a)]
 - (5) Permanent identification of the dog, by means of microchip implantation.
 - (6) Two (2) current color photographs showing the color and size of the dog.
 - (7) Permanent surgical sterilization of the dog by gonadectomy.

It shall be unlawful for an owner of a dangerous dog to fail to obtain a certificate of registration as provided in this section.

(m) It shall be unlawful for the owner to fail to immediately notify the department of animal services when the dog classified as dangerous:

- (1) Is loose, unconfined or missing.
- (2) Has bitten a human being or attacked another animal including livestock.
- (3) Is sold, given away, or dies.
- (4) Is moved to another address.

The owner of the said dangerous dog must notify department of animal services prior to relocating the dog. The animal control authority in the new location must be notified by the owner of a dog classified as dangerous that the dog is in that authority's jurisdiction. Before a dangerous dog is sold or given away, the owner shall provide the name, address, and telephone number of the new owner. The new owner must comply with all the requirements of this section.

- (n) It is unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash rated to withstand the weight and strength of the dog, and under the control of a competent adult physically able to restrain the dog. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision, breathing, panting, or drinking, but will prevent it from biting any person or animal. A properly fitted basket muzzle or agitation muzzle is recommended. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within the owner's sight and only members of his immediate household or persons eighteen (18) years of age or older are allowed in the enclosure when the dog is present. When being transported, the classified dangerous dog shall be safely and securely restrained within a vehicle, which vehicle shall be posted with warning signs that a dangerous dog is in the vehicle. It shall be unlawful for a person to use a dog classified as dangerous for hunting or herding purposes.
- (o) Any person who violates any provision of this section is guilty of a noncriminal infraction, punishable by a fine not exceeding five hundred dollars (\$500.00). [F.S. § 767.12(7)]
- (p) As a condition to each dog's classification, any animal control officer shall, at any reasonable hour, have the right to inspect the owner's premises to determine compliance with F.S. Chs. 767 and 828, and this chapter. It shall be unlawful for an owner to deny the animal control officer or enforcement officer access to inspect the outside of the owner's premises to determine compliance as provided in this section. If authorized by a warrant issued by a court of competent jurisdiction, an animal control officer or enforcement officer shall be permitted to inspect the inside of the owner's premises.
- (q) This section does not apply to dogs used by law enforcement officials for law enforcement work.
- (r) The Marion County Animal Center shall not release any dog subject to a dangerous dog investigation unless the owner presents evidence of their ability to safely confine the dog as provided above, and that all fines and fees related to such dog have been paid. If the owner fails to make payment of all fines and fees within fourteen (14) calendar days of the completion of all hearings and appeals, the dog shall be considered abandoned by the owner and thereafter destroyed in an expeditious and humane manner.

Sec. 4-213. - Attack or bite by unclassified dog that causes death; confiscation; destruction. [s. 767.135]

If a dog that has not been declared dangerous attacks and causes the death of a human, the dog shall be immediately confiscated by the Department of Animal Services, placed in quarantine, if necessary, for the proper length of time or held for 10 business days after the owner is given written notification under section 4-202, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under section 4-202. The dog shall not be destroyed for 30 calendar days after the owner receives the final order, unless the owner waives the right to appeal to the Circuit Court in writing. If the owner files a written appeal to the Circuit Court within 30 calendar days as under section 4-202, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

Sec. 4-224. - Attack or bite by unclassified dog that causes severe injury or death; penalties; discretion to order destruction. [ss. 767.12, 767.136]

- (a) If a dog that has not been declared dangerous attacks and causes severe injury to, or the death of, a human, and the owner of the dog had 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 section 775.082 or section 775.083, Florida Statutes.
- (b) If the dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner of the dog is not guilty of any crime under this section.
- (c) If the Director makes an initial determination that a dog be classified as a dangerous dog due to an incident that caused severe injury to a human being, the Director may, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, also make an initial determination that the dog be destroyed in an expeditious and humane manner in accordance with the procedures in section 4-213.

Sec. 4-235. - Attack or bite by dangerous dog; penalties, confiscation, destruction. [F.S. § 767.13]

- (a) If a dog that has previously been classified dangerous attacks or bites a person or a domestic animal including livestock without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time or impounded and held for ten (10) business days after the owner is given written notification of the initial determination, according to the procedure in section 4-1822, that the dangerous dog has violated this subsection and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing before a final determination, pursuant to the procedures of section 4-202,

whether the dangerous dog has violated this subsection. The dog shall be held for 30 calendar days after the owner receives the final order, unless the owner waives the right to appeal to the Circuit Court in writing. If the owner files a written appeal to the Circuit Court within 30 calendar days as under section 4-202, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

- (b) If a dog that has previously been classified dangerous, attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083, or 775.084.
- (c) If the dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner of the dog is not guilty of any crime under this section.

Sec. 4-246. - Department of Animal Services to maintain list of dogs classified as dangerous.

- (a) A publicly accessible list of all dogs classified as dangerous shall be maintained by the County Department of Animal Services.
- (b) The list shall include:
 - (1) The dog's name,
 - (2) The address at which the dog resides,
 - (3) The dog's breed,
 - (4) The dog's identification number, and
 - (5) Any other information the Department finds will protect public safety and allow for easier identification of dogs classified as dangerous.
- (c) The Department shall update this information when notified that a dog classified as dangerous is moved.

Sec. 4-257. - Property owner's liability; probable cause; civil infractions and citations.

Property owners may be determined to be in violation of this chapter or held liable for the actions or lack of compliance of this chapter by the occupant(s) of their properties if the department of animal services has informed both parties and the violation continues to exist. The violation can either be located on the property or occurring from the property. Unless otherwise specifically provided in this chapter, and regardless of the knowledge, intent or culpability of the violator, any violation of the regulations of this chapter shall be a civil infraction punishable by a maximum civil penalty not to exceed five hundred dollars (\$500.00) per violation. A citation shall be issued by an officer who has probable cause to believe that a person has committed an act in violation of this chapter. Probable cause shall be established by the officer's personal observation of the violation; or upon a violator's admission of the infraction; or by physical evidence which exists to support the complaint; or after investigating a complaint whereby sworn affidavits of complaint signed by two (2) competent persons residing in separate dwellings, setting forth the nature and date of the act, the name and address of the owner or keeper, and a description of the animal, the

officer believes that a violation of this chapter has occurred. Such citation may be contested in the county court. If a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required by F.S. § 828.27(6) concerning mandatory court appearances; the court, upon request of the animal control officer, may issue an order to show cause. This order shall require such persons to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person may be held in contempt. Mandatory court appearances shall be required for certain aggravated violations resulting in the unprovoked biting, attacking, or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of local animal cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court.

Sec. 4-28. - Irresponsible animal owner.

(a) Irresponsible pet owner class I. A person with two previous convictions for animal safety and welfare violations occurring on separate dates, who commits a third animal safety and welfare violation within 24 months of the date of offense of the earliest of the three violations, may be charged with a violation of this section, punishable by a minimum fine of \$300.00. For purposes of this section, animal safety and welfare violation means a violation of any of the following provisions of this Code: Sections 4-12 (public nuisance, except for violations based on excessive noise), 4-11 (control), 4-13 (humane treatment), and 4-14 (motor vehicles).

(b) Irresponsible pet owner class II. When a person meets the conditions for an irresponsible pet owner class I violation, and the circumstances of the most recent violation evidence a knowing refusal to comply with this Code or to take corrective actions, he or she may be charged as an irresponsible pet owner class II under this paragraph, punishable by a minimum fine of \$400.00.

(c) Upon conclusion of any appeal, or the expiration of any right to an appeal, a person who has a conviction for an irresponsible pet owner class II violation shall, for a period of three years after the date of the most recent conviction, be subject to the following regulations:

- (1) Any owned dogs or cats shall be spayed/neutered and microchipped within 30 days.
- (2) Any owned dogs or cats shall be subject to an irresponsible pet owner license fee established in accordance with this Code and applicable law.
- (3) The owner shall not become the owner of any new dogs or cats, and no licenses will be issued for newly acquired dogs or cats.

Sec. 4-29. - Kennel licenses.

(a) No person shall act as, perform duties of, or otherwise maintain a large kennel, business kennel, pet dealer, or breeder without first obtaining a kennel license from Department of Animal Services. This shall not include any registered foster for Marion County Animal Services or an Animal Rescue Organization as defined. No license shall be issued without written

confirmation from the Marion County Zoning Division that the proposed location complies with the applicable zoning requirements.

(b) To obtain a kennel license a person must show proof of vaccination against rabies by a licensed veterinarian for animals four (4) months or older owned by the kennel owner, proof of Marion County licensure for each animal, and maintain a certificate of inspection issued by Animal Services.

(1) Inspection by Animal Services will be concerned with the cleanliness and comfort provided by the facility.

(2) All animals kept or maintained in such a kennel shall be provided with a clean, fresh water supply, proper shelter from the elements and adequate food to maintain a normal condition of health.

(3) Compliance with these requirements will be determined by inspections at least once every six (6) months.

(c) Upon satisfactorily meeting the requirements of this section, the owner will be issued a kennel license. Kennel licenses shall be renewed annually during the month of January. Previously licensed kennels that apply after January for a renewal will be charged double the kennel license fee. Not obtaining a kennel license or violation of any kennel licensing procedure shall be a violation of this chapter and at the discretion of the Animal Services Director the kennel license may be temporarily or permanently revoked.

(d) With the permission of the applicable property owner/tenant/resident or with a warrant obtained in accordance with chapter 933, Florida Statutes, an officer shall have the authority to enter any facility and inspect the facility and any records pertaining to the animals where animals are boarded, sold, bred, trained, or groomed, including, but not limited to pet dealers, breeders, large kennels, business kennels, flea markets, or any other premises or property where animals are kept as a business. Such inspections shall be conducted only in the furtherance of an investigation of a violation of state law or this chapter; this subsection shall not provide an independent basis for an inspection.

Sec. 4-2630. - Chapter to be liberally construed.

This chapter is to be liberally construed in order to effectively carry out the purposes which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of the county.

SECTION 2. SEVERABILITY.

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

SECTION 3. REPEAL OF ORDINANCES.

All ordinances or parts of ordinances, in conflict with this ordinance are, to the extent of such conflict, hereby repealed.

SECTION 4. INCLUSION IN COUNTY CODE.

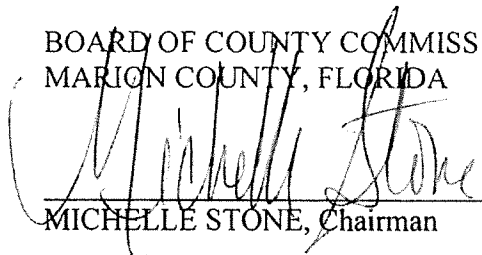
It is the intent of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance be incorporated into the Marion County Code of Ordinances, that the sections of this ordinance may be re-numbered or re-lettered to accomplish such intent.

SECTION 5. EFFECTIVE DATE.

A certified copy of this ordinance shall be filed with the Secretary of State by the Clerk within ten days after enactment by the Board of County Commissioners, and shall take effect upon such filing as provided in F.S. § 125.66(2)(b).

DULY ADOPTED this 7th day of May, 2019.

BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA



MICHELLE STONE, Chairman

ATTEST:



DAVID R. ELLSPERMANN
CLERK

RECEIVED NOTICE FROM
SECRETARY OF STATE
ON MAY 14, 2019
ADVISING ORDINANCE
WAS FILED ON MAY 14, 2019