

**ORDINANCE
2008 - 24**

AN ORDINANCE OF WALTON COUNTY, FLORIDA REPEALING AND REPLACING ORDINANCE 2001-21; AMENDING ARTICLE II OF CHAPTER 5 OF THE WALTON COUNTY CODE OF ORDINANCES, ALSO KNOWN AS WALTON COUNTY ANIMAL CONTROL ORDINANCE, IN ITS ENTIRETY; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND CODIFICATION.

WHEREAS, Chapter 125, Florida Statutes, authorizes the various counties of the State of Florida to adopt regulations in the interest of the public health, safety, and the general welfare of the public; and

WHEREAS, Section 828.27, Florida Statutes, authorizes the counties to adopt an animal control ordinance providing for the issuance of citations for violations; and

WHEREAS, the Board of County Commissioners has determined that it is in the interest of the public health, safety, and the general welfare of the public to require owners to maintain direct control of dogs and cats; and

WHEREAS, all public notices required by law have been provided.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Walton County, Florida, as follows:

Sec. 5.26. Title.

This Article shall be known as and may be cited as the Walton County Animal Control Ordinance.

Sec. 5.27. Geographical Areas Covered.

This Article shall apply in all unincorporated areas of Walton County, excluding U.S. Air Force properties, state, and federal lands.

Sec. 5.28. Definitions.

For the purpose of this Chapter, the following words and terms shall be defined as follows:

- (a) "Animal" shall mean dogs and cats.

(b) “Animal Control Shelter” shall mean any premises designated by the action of the Board for the purpose of impounding and caring for all animals found in violation of this ordinance.

(c) “Animal Control Officer” shall mean a person or persons designated by the Board to enforce the provisions of this Chapter who is authorized to investigate civil infractions relating to animal control or cruelty and to issue citations as provided in this section and has successfully completed a forty (40) hour minimum standards training course as per Florida Statutes § 828.27. An Animal Control Officer is not authorized to bear arms or make arrests; however such Officer may carry a device to chemically subdue and tranquilize an animal, provided such Officer has completed a minimum of sixteen (16) hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

(d) “At large” shall mean off the premises of the owner, and not under the direct control, custody, charge or possession of the owner, or other responsible person.

(e) “Board” shall mean the Walton County Board of County Commissioners.

(f) “Cat” shall mean the domestic cat, *Felis catus*.

(g) “Citation” shall mean a written notice, issued to a person by an Officer, that the Officer has probable cause to believe that person has committed a civil infraction in violation of this ordinance, and that the county court will hear the charge. The citation must contain:

- 1) The date, time and place of issuance.
- 2) The name, address, date of birth, and other forms of identification, such as a Florida driver’s license number, of the person receiving the citation, to the extent such information is provided to the Officer.
- 3) The date, time and place the civil infraction was committed.
- 4) The facts constituting probable cause.
- 5) The ordinance violated.
- 6) The name and authority of the Officer.
- 7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court for aggravated violations.
- 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, the person shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

- 11) A conspicuous statement that if the person is required to appear in court for an aggravated violation of this Ordinance, he or she does not have the option of paying a fine in lieu of appearing in court.
- 12) The names and addresses of witnesses to the infraction known to the Officer at the time of issuance.

(h) "County" shall mean Walton County, Florida.

(i) "Direct control" shall mean immediate and continuous physical control of an animal at all times such as by means of a fence, leash, cord, or chain of sufficient strength to restrain the same, or in a vehicle. Animals under direct control shall at all times have access to shelter, water, and food. This does not preclude walking dogs on a leash.

(j) "Dog" shall mean the domestic dog, *Canis lupus familiaris*.

(k) "Nuisance Animal" shall mean:

- 1) Any animal that may pose a threat to a person or passing vehicle; or
- 2) Any animal off the owner's premises that attacks other animals; or
- 3) Any animal which trespasses on school grounds or public places, other than a service animal; or
- 4) Any animal, which damages private or public property. This includes depositing its waste on other than its owner's property; or
- 5) Any animal, which scatters garbage or trash; or
- 6) Any female animal in heat not properly restrained; or
- 7) Any animal which habitually or continuously barks, whines, howls, meows, cries, screams, or causes objectionable noises when unprovoked; "habitually and continuously" shall mean periods of 10 minutes or more of constant noise, or two or more repeated periods of five minutes or more of constant noise within one hour; or
- 8) Any animal which trespasses onto the private property of another; or
- 9) Any animal whose owner abandoned it by refusing to continue to provide it control and care and by releasing it to run at large.

(l) "Offense" shall mean any violation of this ordinance.

(m) "Officer" shall mean any law enforcement officer defined in Section 943.10, Florida Statutes, or any Animal Control Officer.

(n) "Owner or custodian" shall mean any person harboring, feeding or maintaining an animal for a period of five (5) consecutive days or more. This does not include the Animal Control Shelter.

(o) "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.

- (p) "Public Beach" shall be defined as:
 - 1) The land from the mean high tide line to the Gulf of Mexico;
 - 2) The sandy area next to the mean high tide on which the public has had customary use.
- (q) "Service Animal" shall mean any animal trained to assist a disabled person.
- (r) "Trespass" shall mean any animal owner allowing the animal to be on the private property of a person other than the animal's owner without invitation or permission from the other person.
- (s) "Veterinarian" shall mean a veterinarian, duly licensed and registered by the State of Florida.
- (t) "Walton County Animal Control" shall mean the department of the Walton County Emergency Response Division responsible for implementing and enforcing the provisions of this Ordinance.

Sec. 5.29. Running At Large Prohibited

(a) All animals, when not on the owner's premises or on the premises of another who consents thereto, shall be and remain under the direct control of a person competent to control such animal at all times.

(b) The owner or custodian of any animal found running or remaining at large shall be responsible for any violation of this ordinance.

(c) Exceptions. This section shall not apply to:

- 1) Any dog actually engaged in the sport of hunting, which includes training two weeks preceding hunting season, in authorized areas and under the supervision of a competent person.
- 2) Any animal that is trained to assist or provide personal services for a disabled person, as defined under the Americans with Disabilities Act.
- 3) Government police dog while on duty.

Sec. 5.30. Transportation of Animals.

(a) It shall be unlawful and a violation of this Ordinance for any person to transport a dog or cat in an open-bed truck or other similar vehicle from which the animal can easily escape, unless the animal is confined in a humane manner inside a locked animal carrier, or unless the animal is restrained by a minimum of two tethers, with one tether being affixed to each side of the vehicle, and both tethers being attached to the collar or harness of the animal.

(b) It shall be unlawful and a violation of this Ordinance for any person to transport a dog or cat in an open-bed truck or other similar vehicle when the temperature outside is above 90° or below 40°.

(c) It shall be unlawful and a violation of this Ordinance for any person to transport a dog or cat in an enclosed vehicle trunk.

(d) It shall be unlawful and a violation of this Ordinance for any person to leave an unattended animal in an enclosed vehicle without climate control or proper ventilation.

Sec. 5.31. Pet dealers.

All pet dealers shall abide by the requirements set forth in Florida Statutes, Section 828.29.

Sec. 5.32. Nuisance Animals.

(a) Prohibited. It shall be unlawful for any owner or custodian of an animal to allow the animal to become a nuisance animal, as defined in this Ordinance.

(b) Exemption. Animals in commercial kennels, security animals on property designated as “commercial” or “industrial” under the Walton County Comprehensive Plan, service animals, and animals on their owners’ property that are provoked by persons other than their owners, including trespassers, shall be exempt from the provisions of this section as it relates to animals that habitually or continuously bark, whine, howl, meow, scream, or cause objectionable noises.

(c) Enforcement. An officer, upon receipt of notification of a logged complaint by an individual complainant alleging a violation of this section shall investigate and may issue a citation to any animal owner or custodian whom the officer has probable cause to believe is in violation of this section. The requirement for probable cause shall be satisfied if the violation occurs in the presence of the officer, or if the available evidence at the scene is sufficient for a reasonable person to believe a violation has occurred, or if the owners or occupants of two or more different lots or residences nearby execute verified written statements substantiating a violation.

Sec. 5.33. Dangerous Dogs.

The County and County Animal Control Officers shall follow the notification, hearing and appeal procedures contained in Section 767.12, Florida Statutes, in the classification, confiscation, and destruction of dangerous dogs. Any hearing required pursuant to Section 767.12(1)(c), Florida Statutes, shall be held before the County Administrator or other designee of the Board.

Sec. 5.34. Dogs on the Beach.

(a) All dogs shall be prohibited from public beaches of Walton County except as provided below:

- 1) Dogs assisting those who are sight and hearing impaired or service animals; or,
- 2) Dogs owned by Walton County real property owners or permanent residents who have obtained a permit and who maintain the animal on a leash. The permit will allow leashed dogs on the beach between the hours of 4:00 p.m. and 8:00 a.m. of the following day during Daylight Savings Time and between the hours of 3:00 p.m. and 9:00 a.m. of the following day during non-Daylight Savings Time. Any Walton County real property owner or permanent resident desiring a permit shall be required to pay a \$30.00 fee. All permits issued shall be for a period of one year and will expire on August 1st of each year with a grace period until August 15th of each year. Proof of rabies vaccination must be presented prior to obtaining a permit.
- 3) Owners of dogs shall be responsible for pick up of their dogs' waste.

(b) Nothing in this section shall be interpreted to apply to a property owner of the sandy area next to the mean high tide which would interfere with said owner's right to have their own animal on said property.

(c) Nothing in this section shall be interpreted to repeal Ordinances 2005-10 and 2006-08.

Sec. 5.35. Identification.

All animals must wear a collar or have a tattoo or implanted microchip which identifies the owner of said animal, the owner's address, and phone number. To ensure proper notice, all tattoos shall be registered with Walton County Animal Control. An officer may pick up any animal that is not properly identified and place said animal in the animal control shelter. It is a violation of this Ordinance for an owner to allow the owner's animal to be off the owner's property without being so properly identified.

Sec. 5.36. Rabies Vaccinations.

All dogs, cats and ferrets four months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species. The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacture's directions. The cost of vaccination must be borne by the animal's owner. Every dog, cat, or ferret so vaccinated is required to wear a valid inoculation tag at all times, or the owner must furnish proof of vaccination. Failure to

annually vaccinate a dog, cat, or ferret as per Florida Statutes 828.30 shall constitute a violation of this Ordinance.

Sec. 5.37. Rabies Quarantine.

Any animal suspected of having rabies, or having bitten any person or other animal, may be captured and the procedure detailed in the Florida Statutes and Florida Administrative Code shall be followed.

Sec. 5.38. Authority to Impound.

(a) Any animal whose owner cannot be located, or will not answer the door, and which animal is suspected of being sick or injured or has inflicted injury or threatened to inflict injury to any person or animal may be picked up, trapped, or captured by remote chemical immobilization, if the Officer determines that the seizure is necessary for public health or safety, or to prevent animal suffering.

(b) Any animal impounded under this ordinance not suffering from or suspected of having an infectious disease, shall be held for up to 7 days excluding day of impoundment, unless sooner redeemed by the owner. This time frame may be extended by Walton County Animal Control as necessary. Those animals suffering from or suspected of having an infectious disease shall be evaluated for further action.

(c) Fees. The owner of an animal, impounded or taken into custody under this ordinance, shall pay to Walton County an impoundment fee for each such animal. Impoundment fees are independent of and additional to any civil penalties that may be imposed under this ordinance. The fees shall be paid before an animal may be redeemed by or released to the owner. Or if the animal is destroyed, the owner shall pay the fee within 30 days of written notice from Walton County Animal control that the animal has been destroyed. The fees shall be:

- 1) \$41.62 per week or any part thereof per animal for non-bite impoundments; or
- 2) \$77.28 per each 10 day period or any part thereof per animal in bite or rabies quarantine cases; and
- 3) An impoundment fee shall be required from an owner who, for whatever reason, can no longer properly control and care for an animal, and who voluntarily relinquishes ownership of an animal to Walton County Animal Control; and the owner may remain liable for civil penalties for violations occurring prior to voluntary relinquishment.

Sec. 5.39. Holding Periods at Animal Control Shelter.

(a) The following holding periods are hereby established for animals picked up by or turned in to the Animal Control Shelter:

- 1) Healthy dogs or cats shall be held for a minimum of seven (7) calendar days (not including the day of impoundment) from the date of posting the notice of impoundment;
- 2) Diseased or injured animals shall be held forty-eight hours of the date and time of the posting of the notice of impoundment, unless for humane reasons euthanasia is recommended by a licensed veterinarian.
- 3) The Animal Control Shelter may at its sole discretion extend the holding period beyond this time on a space available basis.
- 4) Unless prohibited by state law, the Animal Control Shelter may, at its discretion, provide veterinary treatment to animals under its care.

(b) Promptly upon the impoundment of any animal, the Animal Control Officer shall give written notice to the owner of said animal, if the owner's name and address is known, and shall post a notice that said animal has been impounded. The notice shall state the date and the area where the animal was picked up, a description of the animal, the reason for impounding it, a statement by the Animal Control Officer certifying the date and time on which the Officer posted the notice, a statement of the number of days or hours in which the owner has to claim the animal from the date the notice is posted, and a statement that unless claimed within the applicable number of days or hours from the date and time on which the notice was posted, said animal will be disposed of. The notice shall be posted at the Walton County Courthouse and the Animal Control Shelter.

(c) Any impounded animal which is not reclaimed by its owner prior to expiration of the holding period shall be disposed of in the following manner:

- 1) Said animal may be destroyed as provided in Chapter 828, Florida Statutes.
- 2) Said animal, at the discretion of the Animal Control Officer, may be adopted by an adult eighteen (18) years of age or older, who desires to give said animal a home, and who pays for the sterilization, proper vaccination, and fees for such adoption.
No animals will be released for adoption without proof of sterilization.

Sec. 5.40. Detaining Animals Roaming on Property, Humane Treatment.

(a) A property owner or tenant who seizes an animal at large on his property shall notify an Animal Control Officer as soon as practicable.

(b) Any person who captures an animal shall exercise care to treat the animal humanely and to avoid any cruelty, injury, sickness, hunger or other ailment or affliction in both seizure and delivery of the animal. Any person unable to comply fully with this section shall not seize the animal. Animal control will not issue traps for individual use between June 1 and September 30, due to heat stress and animal safety issues. This does not prohibit animal control from using them during that period.

(c) Any person who hoards or allows packs or colonies, defined as two or more animals not under direct control, to develop may be held financially responsible for the damages caused

by the animals and may be required at their expense to hire a contractor to remove the problem animals as ordered by animal control.

Sec. 5.41. Power to Set Fees.

The Board, by resolution, may set the fees to be charged to the owner or custodian of an animal by Walton County Animal Control for County impoundment, boarding, adoption, sterilization, rabies vaccination, euthanasia, and disposal.

Sec. 5.42. Interference With An Officer.

It shall be unlawful and a violation of this Ordinance for any person to:

- (a) Refuse to surrender an animal upon lawful demand by any Officer.
- (b) Interfere with any Officer who is lawfully performing his/her duties.
- (c) Hold, hide, or conceal any animal which an Officer has deemed to be in violation of this ordinance or applicable state law.
- (d) Take or attempt to take any animal from an Officer or from the vehicle used by him/her to transport animals in the legal performance of his/her duties.
- (e) Take or attempt to take any animal from an Animal Control Shelter without proper authority.

Sec. 5.43. Penalty.

(a) Violation of any section of this Chapter shall be a civil infraction the maximum penalty for which shall not exceed five hundred dollars (\$500.00). If the person who has committed the civil infraction does not contest the citation, civil penalties of less than the maximum civil penalty shall be assessed as follows:

- 1) For a warning, no civil penalty; or
- 2) For a first non-bite violation, \$41.62; or
- 3) For a first bite violation, \$77.28; and
- 4) For a second violation within three years after a warning or civil penalty, \$75; and
- 5) For a third violation within three years after a warning or civil penalty, \$100; and
- 6) For subsequent violations within three years, as the Court may impose, up to \$500;
- 7) Provided however, for aggravated violations of this ordinance (including but not limited to unprovoked biting, attacking or wounding of a human or a domestic animal; destruction or loss of personal property; animal cruelty; and repeated violations), the officer may direct and clearly state on the citation that the person must appear in court and does not have the option of paying the civil penalty in lieu thereof.

(b) A citation may be issued by an Officer who has probable cause to believe that a person has committed an act in violation of this Chapter. The requirement for probable cause shall be satisfied if the violation occurs in the presence of the officer, or if the available evidence

at the scene is sufficient for a reasonable person to believe a violation has occurred, or if the owners or occupants of two or more different lots or residences nearby execute verified written statements substantiating a violation. After issuing a citation to an alleged violator, the Officer shall deposit the original of the citation with the Clerk of Courts for Walton County. The Officer shall also give one copy of the citation to the alleged violator, one copy to the Walton County Administrator, and shall retain one copy of the citation.

(c) A citation may be contested by the alleged violator in the county court by filing with the Clerk a written demand for a hearing within thirty (30) days of receiving the citation. Upon receiving a demand for hearing from an alleged violator the Clerk shall schedule a hearing in the county court, shall send notice of the hearing to the alleged violator and the Officer, and shall subpoena any witnesses listed on the citation by the citing Officer. The Officer and alleged violator shall be responsible for preparing subpoenas for issuance by the Clerk, for any witnesses which are not listed on the citation. Any person electing to appear in the county court shall be deemed to have waived their right to pay a civil penalty as set in this section and may be assessed by the county court with a civil penalty up to the maximum civil penalty, and court costs.

(d) Any person cited for a violation of this Chapter who does not elect to appear in county court shall pay the Clerk of Courts for Walton County the civil penalty either by mail or in person within thirty (30) days of the date of receiving the citation.

(e) If a person fails to pay the civil penalty within thirty (30) days, or to appear in court to contest the citation, the court may issue an order to show cause upon motion filed by the County. In such a case the person shall be deemed to have waived his right to contest the citation and a judgment may be entered against the person for an amount up to the maximum penalty. 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 directive, that person may be held in contempt of court The County shall be entitled to its costs and reasonable attorney's fees incurred in such proceedings.

(f) As provided in Section 828.27 (5), Florida Statutes, 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 Sections 775.082 or 775.083, Florida Statutes.

(g) In addition to the enforcement procedures provided herein, the Board may enforce this Chapter by any other means provided by law, and may further enforce this Chapter by actions at law and in equity, including actions for injunctive relief, and, if the County prevails in any such action, the County shall be entitled to its costs and reasonable attorney's fees incurred in such action.

(h) In the event an animal is taken into custody, impounded for violation of this ordinance, or the owner of the animal voluntarily relinquishes ownership of the animal to the Animal Control Shelter, the owner shall remain liable for the civil penalties imposed for violation of this ordinance.

(i) Issuance of a citation or warning to an adult member of the household in which an animal resides shall be deemed notice of the citation or warning to all members of the household.

(j) Any civil penalties collected pursuant to this Chapter shall be deposited monthly into the County General Fund.

(k) The Clerk of Court shall retain One Dollar (\$1.00) from each civil penalty collected for the purpose of defraying office expense.

Repeal.

Upon adoption, this Ordinance shall repeal Ordinance No. 2001-21.

Severability.

In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Effective Date.

This Ordinance shall take effect on August 1, 2008.

Codification.

It is the intention of the Board and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, Walton County, Florida, and the sections of this ordinance may be renumbered to accomplish such intention.

PASSED AND DULY ADOPTED in regular session, by the BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA, this 8th day of

July, 2008.

BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA

By: Larry Jones
Larry Jones, Chair

(SEAL)

ATTEST:

Martha Ingle
Martha Ingle, Clerk of Court