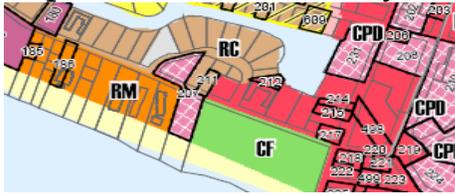


**Town of Fort Myers Beach
Department of Community Development**



MEMORANDUM

To: Local Planning Agency
CC: Anne Dalton, LPA Attorney
Jack Green, Interim Town Manager
From: Frank Shockey, Interim Community Development Director
Date: September 2009
RE: Municipal and County Animal Control

Lee County amended its animal control ordinance substantially in March 2009, and its current ordinance is codified in the Lee County Code of Ordinances Chapter 6, Article III.

Over the past several months the LPA has been discussing ways to improve upon the Town's current animal control ordinance, which is very similar to former versions of the County's animal control ordinance. At times the discussion has involved the question of enforcement responsibility and capability, in addition to the substantive policy desired to be enacted. Minimally, to clean up the existing state of affairs and aside from any question of policy, the Town's ordinances related to animal control should be repealed and reenacted in a consolidated form.

State law provides that

[n]othing contained in this section [828.27, *Florida Statutes*] shall prevent any county or municipality from enacting any ordinance relating to animal control or cruelty which is identical to the provisions of this chapter or any other state law, except as to penalty. However, no county or municipal ordinance relating to

animal control or cruelty shall conflict with the provisions of this chapter or any other state law.

It is clear from the statute that a violation of an ordinance related to animal control or cruelty that is enacted by the Town is a civil infraction punishable only by fine, which may not exceed \$500. The statute authorizes the Town to duplicate state law provisions relating to animal control or cruelty, but still limits the penalty for a violation of the Town's ordinance to no more than a civil fine that does not exceed \$500. If the Town duplicates state law provisions in its own ordinance, they can be enforced by municipal animal control officers, with violators subject to the fine of up to \$500. In the absence of local ordinance provisions that duplicate state law, law enforcement officers and county animal control officers, but not municipal code enforcement officers or municipal animal control officers, could investigate violations of state law relating to animal cruelty.

Several specific issues have been raised as urgent concerns by Town residents and visitors. In a previous draft of ordinance language distributed for LPA discussion, these issues were grouped mostly within two sections dealing with animals as nuisances and limitations upon animals roaming at large.

In addition to these two groups of issues there has been some concern raised by incidents involving dog attacks. State law addresses dangerous dogs and the responsibilities of owners of dangerous dogs, but local governments must adopt and carry out procedures for declaring dogs dangerous that conform to state law before some of the criminal consequences for owners of dangerous dogs can kick in. The county's animal control ordinance includes a section regarding dangerous dogs, and references a separate administrative code that contains procedure for holding dangerous dog hearings.

Many municipalities in Florida have dealt with the need to address locally specific animal control issues by enacting brief ordinances that capture the municipality's policy regarding animals roaming at large, nuisance animals, and other matters of particular concern in the community. For general animal control issues, these municipalities then either adopt the parent county's animal control ordinance by reference, or declare the municipal ordinance to be supplemental to state law and county ordinances on the subject.

Municipalities and the counties within which they are located have taken a variety of approaches to providing for animal control across Florida. In Fort

Myers Beach it seems advisable for practical financial reasons to continue to use uniform county animal control regulations and uniform county enforcement in areas where there is no need and no desire to deviate from those regulations. This could be accomplished either

- (1) by adopting a duplicate of those provisions from the county ordinance;
- (2) by adopting the county ordinance by reference so that future amendments to the county ordinance take effect in the Town at the same time as in the county, or
- (3) by declaring the Town's ordinance supplemental to state law and the county ordinance, so that county animal control officers and the sheriff enforce both the county ordinance and state law in the Town.

Option 1 would require the Town to amend its own ordinance every time the county amends its ordinance in order to keep pace, if county animal control officers will continue to handle enforcement and continue to expect to be enforcing substantially the same provisions as the county ordinance. The difference between Option 2 and Option 3 is slight, as both would track future amendments by the county to its ordinance. Unlike Option 2, however, Option 3 would make it clear that any future enactments by the county that conflict with the specific provisions of the Town's supplemental ordinance would be of no effect in the Town.

In any case, the specific concerns within the Town can be addressed by a handful of supplemental provisions that could be enforced by anyone given the appropriate authority to act as a municipal animal control officer by the Town.

These issues of local concern seem to be:

- (1) A need for a specific leash law, requiring dogs to be leashed when in public, and a further prohibition against animals roaming at large in general; and
- (2) A need for an enumeration of types of nuisances caused by animals, providing for their owners to be held responsible; and
- (3) A need for consistent and reliable investigation and declaration according to "dangerous dog" procedures that will allow owners of dangerous dogs to be held responsible for the actions of their animals.

In addition to these issues raised by LPA, Council, and citizens, Dr. Robert South of the Lee County Health Department contacted me to point out that the health department has significant responsibilities and powers that involve

communicable diseases, including animals that may be infected with communicable diseases. Domestic animals that are more or less cared for by people can spread disease. Dr. South was concerned about recent changes in the county ordinance that encourage and legitimize the feeding of “feral” animals: domestic animals that are roaming at large, without license, identification, medical care, or a permanent home. Animal control officers need to be enabled to impound and euthanize these animals, and if someone is encouraging them to flourish in a particular neighborhood, that someone should be held responsible for their behavior. The Health Department has the authority to order quarantines of infected animals, and it seems reasonable that a person who is encouraging these animals to congregate in a given area ought to be responsible for complying with a quarantine order. If those who harbor feral animals cannot be held responsible for complying with the quarantine order, its purpose in protecting the public health is defeated.

I suggest that a good strategy may be to ensure that we include these “feral” domestic animals within the “roaming-at-large” definition and treat them like any other domestic animals found at-large, by impounding each animal and holding it for a specified time before euthanizing it. Feeding such animals and giving them shelter can be specifically included within the definition of ownership so that those who do so could be held responsible as owners for allowing them to roam at large and for failing to provide license, identification, and veterinary care including vaccinations. These owners could also be required to comply with a quarantine order when necessary.

The flaw in this strategy is that the county has amended its own ordinance, apparently legitimizing the feeding of feral animals. Sections 9 and 26 of the county’s ordinance are at odds because the quarantining required by Section 26 cannot be reliably enforced when Section 9 creates an ambiguous class of animals (“community” animals) who have “caregivers” but not “owners.” No one seemingly can be held responsible for allowing them to roam at large, and their “caregivers” can disclaim responsibility over them when faced with a quarantine order. How this will work in the event of a public health emergency remains to be seen.

The Health Department needs to fight its own battle with the county animal control agency, but in the mean time the Town can adopt appropriate provisions so that actions can be taken in the event of a public health problem without having to pass emergency ordinances.

TOWN OF FORT MYERS BEACH
Ordinance __-__

WHEREAS...

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section One. Authority. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida; Chapters 166, 379, 705, 767, 823, and 828, Florida Statutes, and other applicable provisions of law.

Section Two. Title and Citation. This Ordinance may be known and cited as the “Fort Myers Beach Animal Control Ordinance”.

Section Three. Repeal of prior ordinances.

Section Four. Effect on prior offenses.

No provision of this Ordinance shall be construed to affect any obligation entered into, or any offense committed, prior to its effective date.

Section ____. **Purpose and Intent.** The purpose of this ordinance is to adopt provisions relating to animal control that conform to the requirements set forth in Florida statute where required, that do not prevent or displace the enforcement of Florida statutes related to animal control and cruelty, and that are otherwise congruent with Town policies and procedures. Its intent is to protect and preserve the health, safety, and welfare of humans and domestic animals within the Town of Fort Myers Beach, Florida.

Section ____. **Definitions.**

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations, shall have the meanings given herein, unless specifically defined otherwise within sections of this Ordinance. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words “shall” and “will” are mandatory and not discretionary. Terms not defined herein shall have the meanings given them by state law.

AGENCY: The Town of Fort Myers Beach, or any governmental or non-governmental organization to which authority to enforce and administer this Ordinance is delegated by the Town through interlocal agreement, contract, or other lawful means.

ANIMAL: Every living dumb creature.

ANIMAL CONTROL OFFICER: Any officer employed or appointed by Lee County or the Town of Fort Myers Beach who is authorized by the Agency to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue

citations as provided in this Ordinance. 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 that such officer has successfully completed a minimum of 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

AT LARGE: Any domestic animal, and any live animal possessed by any person, is at large within the Town if it does not meet any one or more of the following conditions:

1. Under direct control of its owner; or
2. Confined on its owner's property by means of a tether restricting its movement, or by means of any combination of fences, walls, hedges, buildings or other physical obstructions that prevent it from leaving the property; or
3. Inside of a building or enclosed vehicle; or
4. Inside a proper enclosure.

CAT: Any live cat (*Felis catus*) or cat-hybrid cross.

CRUELTY: Every act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused (except when done in the interest of medical science), permitted, or allowed to continue when there is reasonable remedy or relief. The term "cruelty" shall be synonymous and interchangeable with the term "torture" and with the term "torment".

DANGEROUS DOG: any dog that according to the records of the Agency:

- (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 its owner's property or while on the owner's property in any area of legal easement;
- (c) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- (d) 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 Agency.

DIRECT CONTROL: Continuous, immediate physical control of an animal by means of a leash of sufficient strength to restrain the animal; or, the employment of a service animal by a person with a disability.

DOG: Any live dog (*Canis familiaris*) or dog-hybrid cross.

DOMESTIC ANIMAL: Any equine or bovine animal, goat, sheep, swine, dog, cat, poultry, or other domesticated beast or bird.

EUTHANASIA: The humane and painless putting to death of an animal that is hopelessly sick, injured, or ultimately unclaimed.

FERAL ANIMAL: Any domestic animal not in the care, custody, or control of any person, and for which an owner has not been, and is not, identified by any means.

FERRET: Any domestic animal of genus *Mustela*.

FRESHWATER FISH: All classes of pisces that are indigenous to fresh water.

IMPOUNDMENT: Confinement of any animal by the Agency in a manner consistent with professionally recognized standards of humane treatment.

LEE COUNTY ANIMAL CONTROL ORDINANCE: Chapter 6, Article III of the Lee County Code of Ordinances, as may be amended and renumbered from time to time by the Board of County Commissioners of Lee County, Florida.

LICENSE: A document and/or tag issued by the Agency indicating that the animal described on the license is owned, kept, or boarded by the individual named thereon.

NUISANCE WILDLIFE: Wildlife that causes or is about to cause property damage, presents a threat to public safety, or wildlife causing an annoyance within, under or upon a building.

OFFICER: Any law enforcement officer; any officer or agent of any municipal or county animal control unit.

OWNED ANIMAL: Any domestic animal for which an owner has been, or is, identified by any means.

OWNER: Any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian.

PROBABLE CAUSE: For purposes of the issuance of a citation by an officer, probable cause shall be facts and circumstances within the officer's knowledge, about which the officer has reasonably accurate information sufficient to lead a reasonable person to believe that a violation of this Ordinance has been or is being committed.

PROPER ENCLOSURE: Secure confinement indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a

secure top to prevent the animal from escaping over, under, or through the structure and shall also provide protection from the elements.

PUBLIC AREA: Lands and improvements owned, leased, or controlled by the federal, state, county, or Town government, including sovereignty submerged lands, and buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, beaches, and similar property lawfully available to use by the public.

SALTWATER FISH: Any saltwater species of finfish of the classes Agnatha, Chondrichthyes, or Osteichthyes and marine invertebrates of the classes Gastropoda, Bivalvia, or Crustacea, or of the phylum Echinodermata, but does not include nonliving shells or echinoderms; and all classes of pisces, shellfish, sponges, and crustacea indigenous to salt water.

SERVICE ANIMAL: An animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

SEVERE INJURY: Any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

TETHER: A flexible rope, cable, or chain that is securely attached to an immovable object and to a properly fitted collar or harness on an animal to prevent it from running at large. A tether must be at least 10 feet in length and may not weigh more than 1/8 the weight of the animal tethered.

TOWN COUNCIL: The Town Council of Fort Myers Beach

UNPROVOKED: means 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.

WILDLIFE: All wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.

Section ____. Provisions supplemental to Lee County Animal Control Ordinance

The provisions of this ordinance shall be supplemental to the provisions of the Lee County Code of Ordinances concerning animal control, known as the Lee County Animal Control Ordinance. In the event of direct conflict between a provision of the Lee County Code of Ordinances and this ordinance, the provisions of this ordinance will apply.

Section ____. **Nuisance Animals** (See 828.27)

A. Any owner of an animal who fails to care for and control that animal and prevent it from becoming a nuisance commits a violation of this Ordinance. Any owner of an animal shall be responsible for the removal of any excrement deposited by that animal on public walks, recreation areas, private property, or any other place where such excrement deposits may create a nuisance injurious to the public health. Any person exercising control over an animal who fails to remove excrement deposited by that animal in a public area or on any other person's private property commits a violation of this Ordinance.

B. Any owner of an animal commits a violation of this Ordinance if that owner:

1. Causes or allows that animal to make unreasonably disturbing noises, including, but not limited to barking, howling, whining, screeching or other utterances causing annoyance, discomfort or disturbance of the peace or sleep of a reasonable person; or
2. Causes or allows that animal to damage the property of anyone other than its owner; or
3. Causes or allows that animal to roam on school grounds or in the area of school transportation vehicles; or
4. Causes or allows unsanitary conditions in enclosures or surroundings where that animal is kept or confined, as determined by the Agency; or
5. Keeps any animal or animals that are dangerous to the public health, safety or welfare by virtue of any combination of the number or types of animals maintained; or
6. Causes or allows that animal to disturb or turn over garbage containers.

Section ____. **Nuisance Wildlife** (F.A.C. 68A-9.010, authority: Art. IV, Sec. 9, Florida Constitution)

A property owner may take nuisance wildlife, or may authorize another person to take nuisance wildlife, on their property:

- (1) In accordance with all applicable provisions of state law, including state agency rules; and
- (2) In a manner not inconsistent with the requirements of this Ordinance and the requirements of the Lee County Animal Control Ordinance.

Section ____. **Animals roaming at-large--responsibility of owner; animal under direct control of owner--responsibility of owner;** (See 828.27, 767.07 and 767.14)

- (1) Any person owning or having possession, charge, custody or control of any animal who permits that animal to stray, run, go, or roam at-large in or upon any public street,

sidewalk, school grounds, in the area of school vehicles, beaches, or parks, or on the private property of others, commits a violation of this Ordinance.

(a) Any domestic animal, owned or feral, found at-large within the Town may be impounded and disposed of in accordance with the Lee County Animal Control Ordinance.

(b) Any owner of real property or tenant upon real property may seize any unrestrained or unattended domestic animal, or domestic animal at-large on that real property. Any such seized animal must be surrendered within twenty-four (24) hours to the Agency for disposition. Any person seizing such an animal shall capture the animal in a humane manner.

(2) For the duration of any time a dog is within any public area of the Town, the owner of that dog must keep it under direct control by the use of a hand-held leash that is not more than six feet in length. The leash must be attached to a properly fitting collar or harness from which the dog cannot escape without human assistance. The owner must withdraw the dog from contact with any person or domestic animal unless such contact is specifically invited either

(a) For a person: by that person, or if the person is under 18 years of age, by that person's parent or guardian; or

(b) For a domestic animal: by that animal's owner.

Any owner of a dog who fails to control that dog in accordance with this subsection commits a violation of this Ordinance. This subsection does not apply to the use of a service animal by its owner.

Section ____. **Violations; method of enforcement; penalty** (828.27)

(1) A violation of this Ordinance is a civil infraction.

(a) The maximum civil penalty for a violation of this Ordinance shall not exceed \$500.

(b) If the person who has committed a violation of this Ordinance does not contest the citation, the maximum civil penalty shall not exceed \$100 [MUST BE LESS THAN \$500]

(c) Surcharge on civil penalties: up to \$5 to be used solely for the training of animal control officers **OPTIONAL but this may be the only money we see from the fines**

(2) Any officer who has probable cause to believe that a person has committed an act in violation of this Ordinance may issue a citation.

(3) A citation must be issued to a person by an officer and must notify that person that the officer has probable cause to believe that the person has committed a civil infraction in violation of this Ordinance, and that the county court will hear the charge. A citation must contain the following:

- (a) The date and time of issuance.
- (b) The name and address of the person.
- (c) The date and time the civil infraction was committed.
- (d) The facts constituting probable cause.
- (e) The ordinance violated.
- (f) The name and authority of the officer.
- (g) The procedure for the person to follow in order to pay the civil penalty, to contest the citation in court.
- (h) The applicable civil penalty if the person elects to contest the citation.
- (i) The applicable civil penalty if the person elects not to contest the citation.
- (j) 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 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 penalty.
- (k) A conspicuous statement that if the person is required to appear in court, he or she does not have the option of paying a fine in lieu of appearing in court.

(4) A citation issued under the provisions of this Ordinance may be contested in county court.

(5) If a person fails to pay the civil penalty or fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the governing body of the Town. 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 of court.

(6) At any hearing authorized pursuant to this Ordinance, the commission of a charged infraction must be proven by a preponderance of evidence.

(7) Any person who willfully refuses to sign and accept a citation issued by an officer commits a violation of this Ordinance.

Section ____. Fines and fees

The Town Council shall adopt a schedule of fees, and a schedule of fines for violations of this Ordinance, in compliance with applicable state law.

Section ____. Effect on enforcement by Lee County and by other organizations (828.03)

Nothing in this ordinance shall be construed as limiting the authority given to law enforcement officers and county animal control officers to investigate and prosecute violations of state law or the Lee County Animal Control Ordinance that occur within the Town of Fort Myers Beach.

Section ____. Conflicts with state law; preemption; severability

All provisions of this Ordinance shall be construed so as not to conflict with state law. Areas preempted by the state, including the regulation of hunting and fishing, and of the taking and possession of wildlife, freshwater fish, and saltwater fish, and other marine life, are not regulated by this Ordinance.

If any one provision of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this Ordinance, and shall in no way affect the validity of all other provisions of this Ordinance.

Draft for Discussion 09/23/09

Section ____. Classification of dogs as dangerous; certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals; unlawful acts (767.12)

1)(a) The Agency shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous. Any animal that is the subject of a dangerous dog investigation, that is not impounded with the Agency, shall be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. The address of where the animal resides shall be provided to the Agency. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification. In the event that a dog is to be euthanized, the dog shall not be relocated or ownership transferred.

(b) A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or, while lawfully on the property, 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 within the immediate vicinity of the dog from an unjustified attack or assault.

(c) After the investigation, the Agency shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing prior to making a final determination. The Agency shall provide written notification of the sufficient cause finding, to the owner, by registered mail, certified hand delivery, or service in conformance with the statutory provisions related to service of process. The owner may file a written request for a hearing within 7 calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than 5 days after receipt of the request from the owner.

(d) If the owner files a written request for a hearing within 7 calendar days from the date of receipt of the notification of the sufficient cause finding, the Agency shall hold a hearing to determine whether to classify the dog as dangerous. The hearing shall follow the hearing procedures specified in Lee County Administrative Code AC-1-1, parts III, IV, V, and VI, except that references to "Animal Services" and "County Attorney's office" shall mean the Agency as defined in this Ordinance, and the hearing may be held at a facility provided for by the Agency. The Town Council may by resolution adopt an administrative code to provide procedures for hearings required by this section, which shall supersede the procedures specified in Lee County Administrative Code AC-1-1.

(e) If the owner does not file a written request for a hearing within 7 calendar days from the date of receipt of the notification of sufficient cause finding, the owner will be deemed to have waived his opportunity for a hearing and the Agency shall make a final

determination classifying the dog a dangerous dog based on the sufficient cause of which the owner was provided written notification.

(f) Once a dog is classified as a dangerous dog, the Agency shall provide written notification to the owner by registered mail, certified hand delivery or service, and the owner may file a written request for a hearing in the county court to appeal the classification within 10 business days after receipt of a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal.

(2) Within 14 days after a dog has been classified as dangerous by the Agency or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and the certificate shall be renewed annually. Such certificates of registration, and renewals thereof, may be issued only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of:

- (a) A current certificate of rabies vaccination for the dog.
- (b) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
- (c) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

The annual fee for the issuance of certificates of registration required by this section to owners residing in the Town shall be set by the Town Council by resolution, or in the absence of such resolution, the Agency shall charge the fee for the most similar purpose charged under the schedule adopted by the Lee County Board of County Commissioners.

(3) The owner shall immediately notify the appropriate animal control authority when a dog that has been classified as dangerous:

- (a) Is loose or unconfined.
- (b) Has bitten a human being or attacked another animal.
- (c) Is sold, given away, or dies.
- (d) Is moved to another address.

Prior to a dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the Agency. The new owner must comply with all of the requirements of this Ordinance and state law, even if the animal is

moved from one local jurisdiction to another within the state. The Agency must be notified by the owner of a dog classified as dangerous that the dog is in the Town.

(4) 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 and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person or animal. 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 his or her sight and only members of the immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

(5) Hunting dogs are exempt from the provisions of this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from the provisions of this section when engaged in any legal procedures. However, such dogs at all other times and in all other respects shall be subject to this Ordinance. Dogs that have been classified as dangerous shall not be used for hunting purposes.

(6) This section does not apply to dogs used by law enforcement officials for law enforcement work.

(7) Any owner of a dog who performs any act prohibited by this section, or fails to perform any act required of an owner of a dog by this section, commits a violation of this Ordinance.

Section ____. **Attack or bite by dangerous dog; confiscation; destruction (767.13)**

(1) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the dangerous dog shall be immediately confiscated by the Agency, placed in quarantine, if necessary, for the proper length of time, or impounded and held for 10 business days after the owner is given written notification under (the immediately previous section), and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under (the immediately previous section). The owner shall be 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.

(2) If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by the Agency, 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 the immediately previous section, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under the immediately previous section. The owner

shall be 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.

(3) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by an animal control authority, 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 **the immediately previous section**, and thereafter destroyed in an expeditious and humane manner. This 10-day time period shall allow the owner to request a hearing under **the immediately previous section**. The owner shall be 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.

(4) If the owner files a written appeal under **the immediately previous section**, the dog must be held and may not be destroyed while the appeal is pending.

(5) If a 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 is not guilty of any violation under this section.

(6) The Agency shall cooperate with the sheriff or other law enforcement authority that is investigating or prosecuting any misdemeanor, felony, or noncriminal violation of state law, which may be related to the actions of any dog that may be dangerous or any dog that has been declared dangerous.

Draft for Discussion 09/23/09

CHAPTER 6. ANIMALS

ARTICLE III. LEE COUNTY ANIMAL CONTROL ORDINANCE

Sec. 6-30. Definitions.

The following definitions are established for purposes of and apply to this article:

Abandon means to give up possession of, to neglect, to forsake an animal entirely or to refuse to provide or perform the legal obligations for care and support of an animal by its owner or owner's agent.

Adequate food means uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition.

Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, and in sufficient amounts to maintain good health. Such water will be provided in a secure manner so that the container cannot be overturned.

Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and protection from exposure to inclement weather.

Adequate health care means the provision to each animal of all immunizations and preventative care required to maintain good health; and the provision to each sick, diseased or injured animal of veterinary care or humane death.

Animal means domesticated animals including dogs, cats and ferrets.

Animal roaming at large means any animal not under the restraint, confinement or direct control of the owner or his agent, as defined further herein.

Animal care facility means any person, group or business that provides for the care, sustenance, housing, maintenance or other necessary care of an animal, usually but not necessarily for a fee. Including, but are not limited to, veterinary facilities, boarding facilities, groomers, animal sitters/foster care, rescues, shelters and pet stores.

Animal control officer means any person employed or appointed by Lee County who is authorized to investigate, pursuant to law, civil infractions or criminal offenses relating to animal control or animal cruelty, and to issue citations as provided in this article, and to file charges based on such investigation.

Auction means any facility or place where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this article. This [definition] does not apply to individual sale of animals by owners.

Baiting means to attack with violence, to provoke or to harass an animal with one (1) or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. "Baiting" also means the use of live animals in the training of racing greyhounds or dogs used in "Hog Dog Rodeos", or any other performing animal exhibition.

Board means the Board of County Commissioners of Lee County, Florida.

Caregiver means any person who provides food, water or shelter to or otherwise cares for any animal, feral or domesticated, over a designated period of ten (10) days or longer that the person, whether of their own volition or by request of the owner of said animal provides care for the animal.

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

Commercial animal establishment means any pet shop, animal grooming shop, flea market, department store, guard dog training facility, riding school, any type of kennel, cattery; or any other premises or property where animals are kept as part or whole of a business concern. Bonafide commercial agricultural animal establishments are excluded from this definition, with the exception of cruelty to animal investigations as authorized in section 6-56(a) of this article.

Cruelty to animals means as defined in F.S. ch. 828, as it may be amended from time to time.

Dangerous animal means any animal that according to the records of the appropriate authority has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property; has more than once severely injured or killed a domestic animal while off the owner's property; has been used primarily or in part for the purpose of fighting or is an animal trained for fighting; or has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one (1) or more persons and dutifully investigated by the appropriate authority.

Designee means the person designated to fulfill the role in the absence of the public safety or domestic animal services director.

Direct control shall mean immediate and continuous physical control of an animal at all times; such as by means of a fence, leash not to exceed six (6) feet in length, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property).

Domestic animal means any animal kept for enjoyment and/or companionship rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent upon people for food, shelter and survival.

Domestic animal services means an entity composed of persons and officers which have full and complete authority to enforce the provisions, regulations and requirements of this article and applicable laws of the State of Florida relating to animals and animal cruelty.

Euthanasia means the humane and painless putting to death of an animal that is hopelessly sick, injured or ultimately unclaimed. In the case of dogs and cats, by injection of sodium pentobarbital as defined in F.S. ch. 828, as it may be amended, from time to time.

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

Grooming shop means any commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard dog means any type of dog used primarily for the purposes of defending, patrolling or protecting property or life.

Guard dog registration means the process of presenting a guard dog to domestic animal services for purposes of documenting pertinent data of the dog, which shall include name, address and telephone number of the guard dog service, the service's manager, the owner (if other than the service), and/or the handler; the dog's breed, sex, color, microchip registration number (if applicable); certification of rabies vaccination; any other distinguishing physical characteristics of the animal, and any "stop attack/release" commands.

Guard dog service means any person, firm or corporation which trains, sells, rents, leases or loans guard dogs for the purpose of defending, patrolling or protecting properties or persons.

Guide dog means a properly trained dog certified by a licensed seeing-eye, hearing-ear-dog, or helper dog agency, and actually being used by a visually/hearing impaired or handicapped person.

Exotic species means any animal whose natural habitat is outside the continental United States, excluding nonvenomous reptiles and fish.

Health department means the Lee County Health Department.

Humane capture methods means the use of control poles, muzzles, nets, humane traps and tranquilizer equipment.

Humane manner means a manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species and breed; including necessary veterinary care.

Humane trap means a device used to capture animals, which does not cause injury to the animal upon capture or confinement.

Implied owner means any person who is harboring an animal without ownership being openly or directly expressed.

Impoundment means confining of any animal by domestic animal services in a manner consistent with professionally recognized standards of humane treatment.

Kennel or cattery means any premises where animals are kept for profit rather than enjoyment, by boarding, grooming, buying, training, selling, letting-for-hire or offering of stud services. Animal hospitals maintained by a Florida licensed veterinarian, shelters operated by the Board of County Commissioners or tax exempt animal care facility shall not be considered commercial kennels or catteries.

Livestock means as defined in F.S. § 828.23, as may be amended, means all animals of the bovine, equine, or swine class and also includes goats, sheep, mules, horses, hogs, and domesticated poultry, or any other animal used in and for utility or preparation of meat or meat products.

Nuisance animal means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to reasonable enjoyment of life or property.

Official health record means a certificate signed by a licensed veterinarian that shows the age, sex, breed, name, description and health record of an animal; as well as the name, address and phone number of the owner or agent of the owner.

Owner means any person or entity owning, keeping, harboring or having control of one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days. Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this article.

Owner's agent means a person or entity capable of acting or empowered to act for and on behalf of the owner.

Person means a natural person or persons, firm, association, corporation or any other entity, legal or otherwise, as defined in F.S. ch. 828, as may be amended.

Pet shop means a store, person, partnership, corporation or franchise operation whether operated separately or in connection with another business enterprise that buys, sells, or boards any species of animal for a fee or reimbursement.

Pet license means a document and/or tag issued by domestic animal services indicating that the animal described on the license is owned, kept or boarded by the individual named thereon.

Provider means any person or entity that provides for the sustenance, medical care, housing, or other essential items/care to any animal. Florida licensed veterinarians are exempt from this definition while providing care for an animal owned by a client, customer, or shelter.

Probable cause exists where the facts and circumstances within the officer's knowledge and of which the officer has reasonably accurate information sufficient to lead a reasonable person to believe that an offense has been or is being committed.

Public nuisance, for the purposes of this article, means any animal that unreasonably annoys the community, injures the health of citizens in general or other animals, or substantially interferes with the rights of other persons to the quiet enjoyment of life or property.

Public property means lands and improvements owned, leased or controlled by the Federal Government, the state, the county, or a municipality, and includes sovereignty submerged lands located adjacent to the County or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property.

Quarantine means the strict indoor confinement, isolation and observation of an animal for symptoms of rabies. Such confinement must prevent the animal from coming into unplanned contact with any other animal or human being for a period of ten (10) days from the date of the bite.

Recognized national, regional or local dog/cat club means any national, regional or local dog or cat club which is chartered, organized, and has by-laws, directors and members.

Restraint means the restraint of an animal by leash, fence, building, chain, cage, crate or other secure enclosure that prevents such animal from roaming at large. Dogs that are restrained exclusively by a chain or tether may be so restrained if the restraint is at least ten (10) feet in length. This may be attached to a pulley or trolley mounted on a cable. No

chain or tether shall weigh more than one-eighth (1/8) of the dog's weight, and shall have swivels on both ends. Each chain, tether or leash shall be attached to a properly fitting collar or harness. Animals must be restrained in a clear area free from obstructions or vermin-harboring debris.

Sanitary means clean and free from infectious or deleterious influences.

Secure enclosure means confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people.

Secure enclosure of a dangerous animal means while on the owner's or keeper's property, a dangerous animal is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designated to prevent the animal from escaping. Such pen or structure shall include a concrete base with a minimum of eight (8) inches of block above concrete base with secure fencing material that is tied into the base and secured behind the block and the enclosure shall further include a full, secure top and locking access door that must remain locked at all times while the dangerous animal is inside. The pen or structure shall also provide adequate ventilation and protection from the elements.

Threatening and menacing behavior means any aggressive behavior toward a human or another animal, whether by barking, growling or charging, without provocation, where such action on the part of the aggressor creates a reasonable apprehension of immediate injury. This does not include an animal that is secured on its own property.

Twenty-four (24) hour notice means a domestic animal services form left upon a property in an attempt to notify an owner or owner's agent of an existing violation or an abandoned animal, and that they have twenty-four (24) hours in which to contact domestic animal services.

Unattended animal means an animal on its own property that is not securely confined and no owner or owner's agent is present, and where that animal is at liberty to come and go freely from its own property.

Unprovoked behavior of an animal means an animal that has been bitten or chased in a menacing fashion or attacked a person or another animal who has been conducting themselves peacefully and lawfully.

Veterinarian means a person who is licensed to engage in the practice of veterinary medicine as provided for in F.S. ch. 474, as may be amended.

Veterinary care means medical treatment by a licensed veterinarian having as its purpose the mitigation of disease, suffering and/or injury.

Veterinary hospital means any place or facility owned or operated by a licensed veterinarian and used for the practice of veterinary medicine in the diagnosis, treatment,

and care of diseases and injuries to animals, or used for the boarding of animals during such diagnosis, treatment or care, or used for the temporary boarding of animals belonging to the veterinarian's clients.

Warning notice means an animal control agency form served on an owner or owner's agent advising them of an existing violation of this article.

Wild animal means any nondomesticated member of the animal kingdom, including those born or raised in captivity that are not dependent upon human beings for survival.

Zoonoses or zoonotic diseases means those diseases transmittable to humans and animals by other animals including parasitic, bacterial, fungal and viral diseases.

Sec. 6-31. Establishment of a county animal shelter.

There is hereby established and created, an animal shelter to provide domestic animal control services for Lee County. The shelter shall be of adequate size and design for the safe confinement of animals.

Sec. 6-32. Domestic animal control enforcement agency.

Lee County Domestic Animal Services hereafter referred to as "Domestic Animal Services" is hereby established as the official domestic animal control authority and enforcement agency for Lee County. It shall employ qualified persons who shall be invested with full and complete authority to enforce the provisions, requirements and regulations set forth herein and to discharge the duties of the office. Those persons designated as animal control officers, are duly appointed as code enforcement officers in accordance with Florida Statute § 162.21(2), as may be amended, of Lee County shall have the authority to issue citations and to enforce this article and the laws of the State of Florida relating to animals.

Sec. 6-33. Adoption by reference: Florida State Statutes relating to animal control, animal welfare and animal cruelty.

The board hereby adopts by reference, as a part of this article, all laws of the State of Florida relating to animal control, animal welfare and animal cruelty.

Sec. 6-34. Cruelty to animals.

(a) No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care; or restrain the animal by any means other than those defined in this article.

(b) No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.

(c) No animal in the care, custody, or control of a person shall be neglected, beaten, cruelly treated, tormented, overworked, overloaded, abused, mutilated or killed.

(d) It shall be unlawful for any person or owner, or group of persons, to abuse, cause bloodletting or death of an animal.

- (e) It shall be unlawful for any person to molest or penetrate an animal or use the body parts of an animal for sexual gratification.
- (f) It shall be unlawful to procure an animal for the purposes set forth in subsections 6-34(d) and (e).
- (g) No person other than a licensed veterinarian, or an owner certified competent by a licensed veterinarian, shall crop the ears or dock the tail of any dog.
- (1) A person commits an offense if he crops or cuts off or causes or procures to be cropped or cut off, the whole or part of the ear, ears or tail of a dog.
- (2) The possession by any person of a dog with an ear or ears cut off or cropped, or tail docked, and with the wound resulting therefrom unhealed, or any such dog being found in the charge or custody of any person, or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this section, unless the cropping or docking has been carried out by a licensed veterinarian or an owner trained by a licensed veterinarian.
- (h) It shall be unlawful for any person to leave or deposit any poison or any substance containing poison in any common street, road, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than that person's own yard or enclosure, for the purpose of inflicting injury or killing any animal.
- (i) The humane slaughter of either domestic or wild animals for food purposes (including but not limited to all lawful hunting activities) is exempt from the provisions of this section.
- (j) Nothing in this section shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Slaughter and the handling or other preparation of livestock for ritual slaughter shall be carried out in a humane method. For the purpose of this section, the term "slaughter" is defined in accordance with F.S. (2008) ch. 828.23(3), as may be amended.
- (k) (1) No owner or agent of an animal shall abandon any animal in any public or private place.
- (2) If an animal control officer suspects that an animal has been abandoned, but such animal does not appear to be in immediate distress or danger, the officer may leave notices posted in a conspicuous place informing the owner or agent to contact said officer within twenty-four (24) hours. Failure to do so will result in the animal being removed by the animal control officer. The animal will become the property of domestic animal services if not redeemed within three (3) days. The officer may issue citations if the owner or agent is subsequently located.
- (3) It shall be unlawful for a person to willfully and knowingly provide false or misleading information to domestic animal services regarding animal ownership, licensing, rabies vaccination, medical treatment and condition and/or other matters pertaining to the enforcement of state law or county ordinance.
- (l) Tethering. No person shall under any circumstances tether or otherwise confine any animal in a manner that is injurious to the animal's health, safety and well-being. Proper and humane tethering includes, but is not limited to the following:
- (1) Collars used to attach an animal should be comfortable and properly fitted as to not choke the animal. The use of choke chains is prohibited.
- (2) The tether shall not extend over an object or edge in such a manner that could result in strangulation of or injury to the animal. The length of the tether must be a minimum of

ten (10) feet, or at least three (3) times the length of the animal measured from the animal's nose to the base of its tail, whichever is greater, unless the tether is being used to secure the animal to the bed of an open vehicle or pick-up truck. Restraints should allow the animal to move about and lie down comfortably.

(3) Tethering of an animal is prohibited during natural disasters such as floods, fires, tornados or hurricanes.

Sec. 6-35. Impoundment of animals found in distress.

Animal control officers shall have the authority to impound any animal found to be cruelly treated or in obvious distress. Any animal so impounded may be taken to a veterinarian without the owner's consent for examination and/or treatment, if necessary. The owner of said animal shall be liable for all costs incurred. Any animal impounded under the provisions of this article and not redeemed by its owner after three (3) consecutive days shall become the property of domestic animal services.

Sec. 6-36. Animal fighting or baiting.

It shall be unlawful for any person to promote, allow or permit any animal to engage in animal fighting or baiting for amusement or gain, including:

- (1) Knowingly owning, managing or operating a facility kept or used for fighting or baiting any animal.
- (2) Owning, possessing, keeping, training, promoting, purchasing or knowingly selling any animal for animal fighting or baiting.
- (3) Promoting, staging, advertising, wagering or charging an admission fee to fighting or baiting between two (2) or more animals.
- (4) Paying for admission to an animal fight/baiting or attending fighting or baiting as a spectator.

Sec. 6-37. Sterilization of dogs and cats released from animal shelter facility.

(a) No unclaimed dog or cat shall be released for adoption without being sterilized prior to entering the new home. Animal control officers are authorized to issue citations for failure to sterilize any cat or dog adopted from the animal shelter.

(b) Sterilization may be deferred only on the recommendation of a licensed veterinarian.

(c) Any person who adopts an unaltered animal shall be required to leave a spay/neuter deposit, which will be fully refunded upon proof that the sterilization has been accomplished.

(d) Any unsterilized animal impounded for a second or subsequent redemption that is reclaimed by the owner shall be sterilized at the expense of the owner prior to the animal being released from domestic animal services. Sterilization may be deferred only on the recommendation of a licensed veterinarian.

Sec. 6-38. Nuisance animals.

It shall be unlawful for any owner or owner's agent to fail to care for or control owned animals that become a nuisance. The owner of every animal shall be responsible for the removal of any excreta deposited by the animal on public walks, recreation areas, private property, or any other place where such excreta deposits may create a nuisance injurious to the public health.

(1) It shall be unlawful for:

- a. Any animal to make unreasonable disturbing noises, including, but not limited to: barking, howling, whining, screeching or other utterances causing annoyance, discomfort or disturbance of the peace or sleep of a reasonable person(s).
- b. Any animal to damage the property of anyone other than its owner.
- c. Any animal to roam on school grounds or in the area of school transportation vehicles.
- d. Any animal to cause unsanitary conditions in enclosures or surroundings where the animal is kept or confined, as determined by domestic animal services to be unsanitary.
- e. Any person to keep any animals that are dangerous to the public health, safety or welfare by virtue of the number or types of animals maintained.
- f. Any animal to disturb or turn over any garbage containers.

(2) No person shall offer a bounty for the collection or the elimination of any animal determined to be a nuisance under the provision of this article.

(3) Caregivers of a community cat or community cat colony shall be exempt under the provisions of section 6-38, nuisance animals, section 6-49, license requirements and section 6-50, animal identification requirements by furnishing the Director of Lee County Domestic Animal Services a signed statement agreeing to the following conditions:

- a. Regularly feed the community cat colony including weekends and holidays insuring sanitary conditions at all times.
- b. Regularly and frequently trap the community cats over the age of twelve (12) weeks for purposes of sterilization.
- c. Identify all community cats by tipping their ears and implanting with a microchip.
- d. All community cats must be vaccinated for rabies.
- e. All community cats with illness and/or injury that cannot be provided with treatment shall be humanely euthanized to prevent pain and suffering.
- f. Caregivers are not permitted to release community cats onto private or public property without the permission of property owner.
- g. Any caregiver determined to be in violation of subsection 6-38(3) shall be issued a written warning and be permitted up to and including thirty (30) days compliance. Failure to comply may result in the issuance of a citation.

Sec. 6-39. Muscovy ducks as nuisances.

(a) Animal services is hereby given the authority to declare Muscovy ducks to be a public nuisance. If a public nuisance is determined to exist, animal services may break the eggs and humanely euthanize the ducks, or authorize other qualified individuals to do the same. Where a nuisance is created by a Muscovy duck or ducks, and the person responsible for the ducks can be determined, the person may be issued a citation for contributing to the creation of a public nuisance.

(b) The possession of or feeding of Muscovy ducks on public property and private property zoned residential is hereby prohibited.

Sec. 6-40. Surrender of stray animals to domestic animal control enforcement agency. Stray animals shall be released by the finder to domestic animal services within twenty-four (24) hours of being found to provide owners the opportunity to reclaim their animal during the stray holding period. A finder may adopt the found animal if unclaimed by the

owner at the expiration of the stray holding period with a completed and approved adoption application through domestic animal services.

Sec. 6-41. Concealment of animals.

It shall be unlawful for any person to confine, hide or conceal any animal to which the person does not have legal title; or any animal which has been involved in a bite or scratch or rabies exposure incident for which formal investigation is pending, or to conceal any other animal that is subject to an investigation by domestic animal services.

Sec. 6-42. Prohibiting animals from running at large.

(a) It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, to permit the animal to stray, run, go or roam at large in or upon any public street, sidewalk, school grounds, in the area of school vehicles, beaches, parks or on the private property of others without the consent of the owner of such property.

(b) Any animal found in violation of this section may be impounded.

(c) Any property owner or tenant upon property may seize an unrestrained animal, unattended animal, or animal at large on his or her property and shall surrender said animal within twenty-four (24) hours to domestic animal services for disposition. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

Sec. 6-43. Threatening or menacing behavior.

(a) It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any other animal not belonging to said owner or agent, when that animal is not on the property of said owner or agent. This section shall not apply to animals which are securely enclosed, or under the direct control of the owner/agent as defined in this article. As defined in F.S. ch. 767, as may be amended.

(b) It shall be unlawful for the owner or agent of any animal to allow that animal to act in a threatening or menacing manner toward any person not on the property of said owner or agent.

(c) Upon receipt of a report of any animal acting in this manner, domestic animal services may investigate the incident. After investigation, domestic animal services may order the owner or agent to keep the animal restrained or confined as defined in this article, and may issue a written warning or a citation and a notice ordering confinement.

(d) Upon an owner's conviction under this section, the subject animal will be considered a dangerous animal for the purpose of section 6-44 as defined in this article. A record of the order to confine, the written warning, the citation, and any supporting affidavits will be held on file at domestic animal services.

(e) An order to confine will be a written notice issued by an animal control officer to a person who owns or harbors a dog that has acted in a threatening or menacing manner. One (1) copy will be left with the owner of the animal and one (1) copy will be kept on file at domestic animal services. Such notice shall include name, address and telephone number of owner; sex, color, breed of dog; license and rabies vaccination registration numbers; time, date and nature of incident; signature of owner agreeing to confinement and signature of issuing officer. The confinement must be completed within twenty-four

(24) hours of the notice being issued. The animal control officer conducting the investigation will check to ensure that the confinement has been completed.

(f) Failure or refusal to confine any animal in violation of this section may result in the animal being impounded and/or citations being issued.

(g) Exception to threatening or menacing behavior. An animal that is secured on its own property cannot be found to be threatening or menacing.

Sec. 6-44. Dangerous animals.

(a) The director of domestic animal services or designee may declare that an animal is a dangerous animal, in accordance with applicable county administrative code.

(b) Any animal declared to be a dangerous animal shall be confined in a secure enclosure on the premises of the owner or keeper of such animal. No dangerous animal shall be allowed off the premises of the owner or keeper unless such animal remains:

(1) Inside a secure marked carrier identifying the animal as dangerous, or

(2) Under the physical control of such owner or keeper who is competent and over the age of eighteen (18) years, securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length attached to an approved harness which identifies the animal, provided by domestic animal services at owner's expense. The muzzle must be made in a manner that will not cause injury to the animal or interfere with its vision or respiration; or

(3) Subject to conditions established by the director of domestic animal services.

(c) It is a violation of this article for the owner or keeper of a dangerous animal to refuse or fail to confine or restrain such animal as required by this section.

(d) No dangerous animal impounded pursuant to this article shall be released until:

(1) The owner or keeper of such dangerous animal presents proof to the director of domestic animal services that the animal will be confined as required by this section;

(2) The owner or keeper executes an affidavit acknowledging that the animal has been declared dangerous, agreeing to confine and restrain the animal, and recognizing the county's right to ownership and custody of the animal if it bites or injures a human or another animal after being declared dangerous.

(3) Provides proof that the animal has been electronically implanted, sterilized, vaccinated for rabies and has made payment of a one-time dangerous dog registration fee of one thousand five hundred dollars (\$1,500.00) with the acknowledgement of an additional annual registration fee of five hundred dollars (\$500.00) per year. This annual registration fee is in addition to the pet licensing fee required in section 6-51 of this article.

(4) Posts warning signs with attached number identifying the dangerous animal, provided by domestic animal services at owner's expense, on owner or keeper's premise stating "Dangerous Animal" on the property at all entry points to the property.

(5) If applicable, a notarized statement must be submitted to the director of domestic animal services by the landlord of said property that will house a dangerous animal including adherence to all posting regulations.

(e) If a dangerous animal is sold or given away, the owner or keeper of a dangerous animal shall report, in writing, the names, addresses and telephone numbers of the new owner or keeper to the director of domestic animal services prior to the transfer of ownership or custody of such animal. It is a violation of this article not to report the name

and address of the new owner. The owner or keeper shall update all relevant information with the national registry applicable to the microchip and shall provide domestic animal services with confirmation that the microchip information has been updated. The new responsible party shall comply with all of the requirements of this section even if the animal is later moved from this county to another county within the State of Florida. If an animal that has been designated by another jurisdiction as dangerous and is housed within Lee County, the owner or keeper shall immediately register the animal with domestic animal services. If an animal is declared dangerous by another municipality, the animal will automatically be declared a dangerous animal in Lee County, requiring the owner or keeper to comply with section 6-44 of this article.

(f) The owner or keeper of a dangerous animal shall report in writing or by telephone the death of such animal to the director of domestic animal services immediately, and it is a violation of this article not to do so. The death of such animal shall be verified by a licensed veterinarian or an animal control officer.

(g) The owner or keeper of a dangerous animal, whether or not it has been declared dangerous, who permits, allows or causes such animal to run, stray or be uncontrolled or at large in or upon public or private property, shall be in violation of this article if such dangerous animal bites, attacks or causes injury to any person or domestic animal.

(h) It is a violation of this article for any person convicted under this subsection to own, keep, possess, control or be in charge of any animal of the breed which caused the bite, attack or injury for which a conviction was rendered for a period of three (3) years from the date of conviction. No license certificate, license tag or other permit shall be issued for such type of animal to such person within three (3) years of such conviction.

(i) Domestic animal services shall have the authority to make inspections as necessary to ensure that the owner or keeper of a dangerous animal is in compliance of county ordinance. Animals classified as dangerous under this article:

(1) Shall not be used as a guard dog.

(2) Shall not be used for the purposes of hunting.

(j) Upon declaration of euthanasia of a dangerous animal provided by domestic animal services, domestic animal services shall provide the owner of a classified dangerous animal written notice containing all costs and fees incurred by the department in the confiscation, maintenance, quarantine and euthanasia of the animal with a deadline not less than thirty (30) days from receipt of the notice of payment of the costs and fees.

(k) Exception to classification under section 6-43 or 6-44. No animal shall be classified as threatening or dangerous if the threat of injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the owner of the animal, or who was committing a willful trespass upon premises occupied by the owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or its owner.

Sec. 6-45. Failure to confine female dogs and cats in season.

(a) It shall be unlawful for the owner or agent of any female dog or cat in season to fail to keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel to prevent such dog or cat coming into contact with another dog or cat except for intentional breeding purposes. Confinement solely by a leash, chain or other similar restraint, or within a fence, open kennel, open cage or run, may be, but shall not be presumed to be, in compliance with this section.

- (b) For the purposes of this section, a fenced yard may not be considered a secure enclosure, and any female in season chained on any unfenced lot, tract, yard or parcel of land may be removed by an animal control officer and confined at domestic animal services until the owner of said animal provides alternative confinement, or the animal's condition has ceased to exist. The owner or agent shall be liable for all fees incurred. Domestic animal services may issue citations for any violation of this section.
- (c) Violations of the above shall be subject to the appropriate penalties as set out in Florida law for violations of county ordinances.

Sec. 6-46. Opposing an animal control officer.

- (a) It shall be unlawful for any person to oppose, resist, obstruct, hinder or in any manner prevent an animal control officer from performing lawful duties.
- (b) It shall be unlawful to tear down, burn, deface, destroy or otherwise damage any animal shelter, equipment, vehicle, or to release or remove any animal from the custody of an animal control officer, domestic animal services shelter or trap owned by domestic animal services.

Sec. 6-47. Enforcement of violations.

- (a) Animal control officers shall have the authority to impound any animal in violation of this article by using recognized capture techniques and methods. Such methods and techniques may include but are not limited to: leashes, control poles, nets, humane traps and recognized tranquilizer equipment.
- (b) If after a reasonable effort the seizure of any such unrestrained animal cannot be made, or should the animal be dangerous or have an injury or physical condition which causes the animal to suffer, the animal control officer may incapacitate the animal by the most reasonable and humane means then available.
- (c) Animal control officers, on determining that a violation of this article has occurred, may issue a citation or warning notice to the owner or his agent. The citation criteria as set forth in F.S. (2008) ch. 828.27, as may be amended, are hereby adopted, and will be utilized.
- (d) 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 for in Florida Statutes.
- (e) Any duly sworn law enforcement officer in Lee County may enforce the provisions of this article in any jurisdiction where this article applies.

Sec. 6-48. Vaccination requirements for dogs, cats and ferrets.

- (a) Any person who owns, keeps, possesses, provides for or harbors within Lee County any dog, cat, or ferret four (4) months of age or older must have such animal vaccinated against rabies. Any person owning, keeping, possessing or harboring any dog, cat, or ferret without proof of a current valid vaccination shall be deemed to be violating this provision.
- (b) All dogs, cats, and ferrets four (4) months of age or older must be vaccinated against rabies by a licensed veterinarian with a vaccine that is licensed for use in such species and in the following manner:
- (1) The animal must be revaccinated twelve (12) months after the initial vaccination.

(2) For subsequent vaccinations the interval between vaccinations shall conform to the vaccine manufacturer's directions.

(3) Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(4) Any owner or agent doing a self-vaccination for rabies shall be deemed in violation of this section.

(5) A dog, cat, or ferret is only 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. A county license must be purchased regardless of the exemption from the rabies vaccination.

(c) A licensed veterinarian shall provide the owner of the animal a rabies vaccination certificate at the time of the vaccination. Similarly, the licensed veterinarian shall provide animal services a copy of the actual rabies certificate within thirty (30) days of the vaccination or immediately upon demand for investigations, public safety or other reasons of enforcement.

(1) Each veterinarian shall use the "Rabies Vaccination Certificate," of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government.

(2) Failure to provide the rabies vaccination certificate as required by this section shall be deemed a separate and distinct violation for each certificate not issued or provided to domestic animal services.

Sec. 6-49. License requirements for dogs, cats and ferrets.

(a) Any veterinarian vaccinating dogs, cats or ferrets in Lee County shall only issue the county vaccination/license tag along with the proper rabies certificate requirements described above as proof of vaccination. No veterinarian, clinic, shelter or provider shall issue any tag or object that may be thought by a reasonable person to be the equivalent of the required county rabies/license tag. Each individual tag or object issued shall be deemed a violation.

(b) Any person who owns, keeps, possesses, provides for or harbors within Lee County any dog, cat or ferret four (4) months of age or older must have such animal licensed.

(1) Excluded from this license requirement are shelters operated by or under contract with the board of county commissioners. Not exempt from this requirement are rescues, private animal facilities, greyhound or other sporting dog facilities, breeders, and other animal care facilities.

(2) The county license must be attached to a collar or harness on the animal at all times. Cats and ferrets that have a microchip registered to the owner with current name, address, and phone number shall be exempt from the requirement that the license tag must be attached to the animal.

(c) No license shall be issued unless the dog, cat, or ferret has been vaccinated against rabies. Owners of animals that are exempt from rabies vaccination due to a medical condition and who possess a valid medical certificate of exemption issued by a licensed veterinarian are required to purchase a one-year county license regardless of the

exemption from a licensed veterinarian. One-year licenses shall only be issued with a one-year rabies vaccination and three-year licenses shall only be issued with a three-year rabies vaccination.

(d) Owners of animals who visit Lee County or reside in Lee County for less than thirty (30) days per year are exempt from the license requirement provided that they have proof of a valid current rabies vaccination.

(e) No license tag issued for one (1) animal shall be considered valid for any other animal. Any person that owns, keeps, harbors, provides for or possesses an animal wearing the license tag of another animal shall be in violation of this article even if the animal has a valid license of its own.

(f) The license tag may be issued by a licensed veterinarian or other entity approved by the director of domestic animal services to issue county license tags upon being shown a current vaccination certificate from any licensed veterinarian.

(g) All veterinarians, clinics, shelters, pet stores and other outlets where cats, dogs, and/or ferrets are available, sold or vaccinated against rabies must inform the public in writing of the rabies and license requirements within Lee County. Such information must include the cost of the license and how a license may be obtained (including information on getting a license through the mail or in person at domestic animal services). To satisfy the information requirement the facility may post a sign or provide an informational brochure or provide the written information in a manner easily accessible and understandable.

Sec. 6-50. Animal identification requirements for dogs, cats and ferrets.

(a) All dogs, cats and ferrets must have some form of identification indicating the owner's name and current telephone number at all times. Examples of identification meeting the requirements of this section:

(1) Any commercially available tag imprinted with the appropriate information attached to the collar or harness of a pet.

(2) A current, valid county license/rabies tag attached to the collar or harness of a pet.

(3) An implanted microchip identification device registered to the owner of the animal and with a current name, address, and telephone number.

(b) It shall be unlawful to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identification of an animal. Cats are not exempt from this provision. During a recognized breed show, the owner of the dog, cat or ferret shall retain the license tag and/or rabies certificate, and shall produce the same if called upon to verify that any cat, dog or ferret has the required license and vaccination.

Sec. 6-51. License fees.

(a) The board of county commissioners shall set the fee by resolution.

(b) The fee is payable to the authorized agency or the authorized veterinarian. License fees collected must be properly documented and funds remitted to domestic animal services within forty-five (45) days of the sale of the tag. The director of domestic animal services may provide for an extension of the deadline, in writing, for special circumstances.

(c) Authorized sellers of the Lee County license must sell the license at the fee levels approved by the board and must keep complete and accurate records of tags sold and on

hand as inventory. All theft or loss must be reported immediately to the proper authority, and a copy of the official law enforcement report must be provided to domestic animal services. Unexplained shortages/losses of tags or sales of tags at the incorrect prices are the responsibility of the seller.

(d) Authorized sellers of the Lee County license tags may charge a reasonable administrative fee to cover costs of providing that service per license issued. The maximum allowable administrative fee shall be set by the board through the external fees administrative code. Any authorized seller that charges an administrative fee must inform the client that such a fee is charged by that establishment/provider and that license tags are available through the county with no additional charge. Any such fees may not be added to the cost of a license but must be listed separately on any invoice/receipt.

(e) License fees are not required for governmental police dogs, or certified dogs, trained to assist the physically handicapped; but such animals must be licensed and must have received their rabies vaccination. In order to receive these license tags at no charge, the owner must have the animal licensed through domestic animal services, no other outlet is authorized to issue these license tags.

(f) If an owner fails to obtain a valid license each year it is required, fees may be assessed for previous years' licenses for a period of up to three (3) years.

Sec. 6-52. Animals in motor vehicles.

(a) The owner or operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

(b) It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.

(c) Any animal control officer or law enforcement officer who observes an animal in a motor vehicle in obvious danger or distress may enter the motor vehicle by any means necessary to remove and impound the animal or take the animal to a veterinarian if necessary. If the owner of said animal cannot be contacted, the animal control officer or law enforcement officer shall leave in a prominent place in or upon the vehicle a written notice as to the reason for removal of the animal. The owner of the animal and the owner of the motor vehicle are responsible for any costs incurred.

(d) Any person violating the provisions of this section shall upon conviction be guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

Sec. 6-53. Humane treatment of animals.

(a) It is unlawful for any person to dye or artificially color any animal or fowl, including but not limited to rabbits, baby chickens and ducklings, or to bring any dyed or colored animal or fowl into this county.

(b) It is unlawful for any person to sell, offer for sale, or give away as merchandising premiums, baby chickens, ducklings, or other fowl under four (4) weeks of age, or rabbits under two (2) months of age, to be used as pets, toys or retail premiums.

(c) Any person violating the provisions of this section shall upon conviction be guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

Sec. 6-54. Redemption and disposition of impounded and unwanted animals.

(a) Any cat, dog, or ferret impounded under the provision of this article and not redeemed by its owner after three (3) consecutive days shall become the property of the domestic animal services. The three (3) day period does not apply to sick, injured, diseased or orphaned sucklings, or wild animals regulated by state wildlife agencies. Any stray cat, dog or ferret impounded that possesses a valid county license and/or microchip shall be held for five (5) consecutive days before becoming the property of domestic animal services. Litters of animals or individual members of a litter of animals, including the nursing mother and unweaned animals, that do not possess a valid county license and/or microchip may be transferred immediately upon impoundment to a private sheltering agency, rescue group or individuals for the purpose of adoption. Individual members of litters of animals who are at least six (6) weeks of age, including the mother, may be adopted immediately upon impoundment.

(b) This time period may be extended or reduced at the discretion of domestic animal services to relieve animal suffering or to limit disease contagious to humans and animals housed at domestic animal services.

(c) Domestic animal services may utilize the services of a veterinarian to treat sick, injured or diseased animals. The owner shall be responsible for all such costs incurred.

(d) Feral animals that do not possess a valid county license and/or microchip may be humanely euthanized upon impoundment.

(e) Any person seeking to redeem or reclaim an animal impounded under the provisions of this article shall pay the impoundment fees, boarding fees, license fees and all other fees resulting from impounding and caring for the animal. Any animal to be released from domestic animal services must have a rabies vaccination and license or a license and rabies vaccination must be obtained by the owner. If a rabies vaccination is not available at domestic animal services for any reason, the person seeking to redeem or reclaim the animal must pre-pay the license fee, the animal will be released to its owner or his designee, who then must have the animal vaccinated for rabies by a licensed veterinarian. The certificate of vaccination must be provided to domestic animal services as a prerequisite to issuance of the license.

(f) An owner whose animal has been impounded more than one (1) time shall be charged increasing fees for each subsequent impoundment. Fees shall be established by the board in the external fees manual.

(g) When the ownership of an animal is deemed questionable, domestic animal services will require proof of ownership. Proof of ownership may include valid county license, veterinary records, registered microchip identification or other reliable, verifiable documentary evidence. If ownership cannot be proven by the required information the animal in question must be adopted rather than redeemed; the person claiming unproven ownership may be afforded the opportunity to adopt the animal prior to the public at the discretion of domestic animal services.

(h) Prior to release from domestic animal services' shelter, all dogs, cats and ferrets must be microchipped; with the microchip being registered to the pet owner.

(i) Exotic invasive animal species found at large and impounded shall be humanely euthanized. The only exceptions to this provision is if the animal is released to an educational facility for study to assist in the control and removal of the species or if the

animal is to be used for educational purposes to inform the public of the dangers of invasive exotic animal species.

Sec. 6-55. Providing for the reporting of persons bitten or scratched by animals and quarantine of animals for rabies observation.

(a) Any stray dog, cat or ferret that bites or scratches a person shall be impounded by domestic animal services and held in quarantine for a minimum period of ten (10) days from the date of bite or scratch for rabies observation or humane euthanasia and sent to the state board of health for pathological examination after the expiration of the stray holding period. Animals not redeemed within the ten (10) day quarantine period shall be considered abandoned and may be euthanized.

(b) Owned dogs, cats or ferrets that have bitten a human may be permitted to be quarantined at home for a minimum period of ten (10) days from the date of bite or scratch for rabies observation. Information regarding the animal's description; current rabies vaccination date; owner's name, address and telephone number; the name of the animal; the address and telephone number of person bitten or scratched; and location of wound, shall be reported to the department of health. An owner whose animal has bitten or scratched a human shall comply fully with Chapter 64D-3 Florida Administrative Code (Control of Communicable Diseases & Conditions Which May Significantly Affect Public Health).

(c) It shall be a violation of this article for any person to refuse to surrender any animal for quarantine.

(d) No owner of an animal placed under a home quarantine agreement for rabies observation shall violate the home quarantine agreement in any manner.

(e) Any dog, cat or ferret that dies or is humanely euthanized while under quarantine shall undergo pathological examination performed by the state board of health. It shall be a violation of this article for any person to refuse to surrender the body of a deceased animal while under quarantine.

(f) It is a violation of this article for anyone to kill or remove from Lee County, Florida, without the express written consent of domestic animal services or the health department any of the following:

- (1) Any rabid animal;
- (2) Any animal suspected of rabies or any other infectious or contagious disease;
- (3) Any animal exhibiting unusual behavior;
- (4) Any animal which scratches or bites a person; or
- (5) Any animal under quarantine.

(g) Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided for in Florida Statutes.

(h) It shall be the duty of any person having knowledge that an animal has bitten or otherwise exposed a person or any animal to rabies, to report the incident immediately to the department of health.

(i) Any person who, upon demand, does not surrender to domestic animal services or the health department the carcass of any dead animal exposed to rabies shall be guilty of a misdemeanor of the second degree, for each separate offense.

Sec. 6-56. Inspection of commercial animal establishments.

(a) Domestic animal services shall have the authority to enter and inspect any commercial animal establishment in Lee County during reasonable hours, for the purpose of ascertaining violations of this article or of Florida State Statutes. Bonafide commercial agricultural animal establishments which includes livestock as defined herein, are specifically exempt from the provisions of this subparagraph (a).

(b) Any owner, manager or staff person upon demand of an animal control officer must produce any and all records pertaining to sale or purchase of animals, veterinary care, rabies certification, health certification, feed receipts, business or exhibitors licenses or permits, relating to each animal on the premises.

(c) Standards of care required to be maintained at all commercial animal establishments in Lee County must include, but are not limited to:

(1) All animals must be given adequate food, water, shelter and veterinary care, as defined in this article.

(2) All cages, kennels, stalls or enclosures shall be cleaned daily. Any bedding provided must be clean.

(3) In shops or kennels, room temperature shall be maintained at a level that is healthful for every species of animals kept on the premises. Adequate ventilation shall be maintained.

(4) All buildings and sheds used for stabling animals shall be well ventilated and provide adequate protection from the elements.

(5) Each animal shall have sufficient space to stand up, lie down, and turn around in a natural position, without touching the sides or top of the cage, stall, kennel or enclosure. Overcrowding will be determined by the inspecting officer.

(6) Any animal that appears to be sick must be quarantined away from other animals to avoid the spread of disease and examined by a licensed veterinarian before being placed back with other animals or sold.

(d) Each animal found in violation of this section shall be deemed a separate offense.

Sec. 6-57. Guard dogs.

(a) Any person utilizing a dog for the purpose of guarding a business shall register all dogs used in their business with domestic animal services. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; and certification of rabies vaccination.

(b) Guard dogs newly acquired shall be vaccinated for rabies and registered with domestic animal services no later than seventy-two (72) hours after acquisition.

(c) The fee for registration of a guard dog will be listed in the Lee County Administrative Codes.

(d) Each guard dog will be issued with a registration number which will be obtained from domestic animal services. This number will be posted at the entrance of any property using that guard dog service. At the time of registration, each dog will be microchipped and receive an identification tag that must be affixed to the dog at all times.

(e) Domestic animal services shall maintain a guard dog register which shall contain all data required by this section. Immediately upon transfer of ownership, death, disappearance or annual rabies inoculation of a guard dog, each guard dog service or owner shall notify domestic animal services. Upon receipt of the information, the

appropriate entry shall be made in the register. If the guard dog has disappeared, an entry should be made to reflect the locale and reason of such disappearance.

(f) An animal control officer shall have the right to enter and inspect all kennels housing guard dogs and other premises where such dogs are in use for determination of owner registration compliance.

(g) It shall be unlawful for any person, firm or corporation to own or harbor any guard dog in the county that has not been inoculated, registered and tattooed as provided by this section.

(h) Transportation of guard dogs. The vehicle of every guard dog service transporting any guard dog must be clearly marked, showing that it is transporting a guard dog. A compartment separate from the driver and separating each dog is required, which shall be arranged to ensure maximum ventilation for the animal.

(i) Requirements of businesses using dogs for the purpose of guarding:

(1) Persons who hire or use a guard dog service to patrol the premises shall provide adequate fencing or some other confining structure to keep the guard dog within the enclosed area.

(2) Persons who hire or use a guard dog service to patrol the premises during that business' operating hours shall have said dog confined in such a manner so as not to pose a danger to the public.

(3) At each appropriate location and entry point, and at 50-foot intervals along the fence perimeter, if applicable, a sign shall be posted including the words "Bad Dog" or "Guard Dog", with a dog picture.

(4) All entry points shall be posted with the guard dog registration number.

(5) Dogs used for guarding businesses must be given a humane existence, including adequate shelter, food, water and exercise.

(6) No dog which has been classified as dangerous by domestic animal services shall be used as a guard dog.

(j) Failure to comply with this section is a violation of this article.

Sec. 6-58. Disposal of dead bodies of owned animals.

Upon the death of an animal, the owner shall be responsible for disposing of the carcass by burial at least two (2) feet below the surface of the ground. The approved alternative method of disposal is cremation at a Lee County approved licensed crematory. Nothing in this section prohibits the disposal of animal carcasses to rendering companies licensed to do business in this state. It is unlawful to dispose of the carcass of any domestic animal by dumping the carcass on public property, road or right-of-way, pursuant to F.S. ch. 823.041, as may be amended.

Sec. 6-59. Fines and fees.

All fines and fees, including licensing fees, are set by resolution of the board of county commissioners and are included in the external fees manual.

Sec. 6-60. Conflict.

In the event that this article is found to be contrary to any other Lee County Ordinance which regulates the same subject matter, then in said event, the more restrictive ordinance shall apply.