

ORDINANCE NO. 18- 068

AN ORDINANCE CREATING THE POLK COUNTY ANIMAL CONTROL AND ANIMAL SERVICES ORDINANCE; PROVIDING DEFINITIONS; PROVIDING A PROCESS FOR MUNICIPALITIES TO ADOPT THIS ORDINANCE; SETTING THE CONDITIONS UNDER WHICH DOGS AND CATS ARE TO BE VACCINATED AND TAGGED; REQUIRING VACCINATION, STERILIZATION, AND MICROCHIPPING OF ANIMALS PRIOR TO LEAVING THE SHELTER OR WITHIN THREE DAYS OF LEAVING IN CERTAIN INSTANCES; SETTING FEES FOR ANIMAL SERVICES; ALLOWING THE ANIMAL CONTROL AUTHORITY TO SET SUBSEQUENT FEES; PROHIBITING ANIMALS RUNNING AT LARGE; PROHIBITING THE FALSE IDENTIFICATION OF UNALTERED ANIMALS AS ALTERED; PROHIBITING THE ABANDONMENT OF ANIMALS; PROVIDING HOLDING PERIODS FOR UNCLAIMED AND QUARANTINED ANIMALS; AUTHORIZING THE IMPOUNDING OF ANIMALS RUNNING AT LARGE; PROHIBITING COMPANION ANIMALS FROM CREATING A NUISANCE; PROTECTING THE PUBLIC HEALTH OR SAFETY BY SEIZING SICK OR INJURED ANIMALS; ALLOWING A RESIDENT TO HUMANELY CAPTURE AT-LARGE ANIMALS ON HIS/HER PROPERTY; PROVING GUARD DOG STANDARDS, RESTRICTIONS, REQUIREMENTS, AND PENALTIES; CLASSIFICATION OF DOGS AS DANGEROUS; PROVIDING PROCEDURES FOR DANGEROUS DOG HEARINGS; PROVIDING FOR SURRENDER OF ANIMAL BY OWNER; STATING THE DUTIES AND AUTHORITY OF OFFICERS; PROVIDING THAT IT IS UNLAWFUL TO INTERFERE WITH AN OFFICER WHILE IN LEGAL PERFORMANCE OF HIS/HER DUTIES; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING THAT THE PENALTIES MAY BE CHANGED BY A RESOLUTION OF THE BOARD; STATING THE FORM OF CITATION AND NOTICE; PROVIDING A PROCEDURE FOR PEOPLE CITED FOR VIOLATION OF THE ANIMAL CONTROL AND ANIMAL SERVICES ORDINANCE; STATING THAT THE CITATION CONSTITUTES A WARNING TO THE HOUSEHOLD; PROVIDING FOR THE REPEAL OF POLK COUNTY ORDINANCE 10-001, AND REPEAL OF ALL AMENDMENTS THERETO, INCLUDING WITHOUT LIMITATION, ORDINANCE 13-035; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:**

**SECTION 1:**           SHORT TITLE

This article shall be known and may be cited as the Polk County Animal Control and Animal Services Ordinance.

**SECTION 2:**           DEFINITIONS

In construing this Ordinance, the singular shall include the plural and the masculine shall include the feminine.

Altered animal or sterilized animal shall be defined as an animal that has been rendered permanently incapable of reproduction (i.e. spayed or neutered).

Animal shall be defined to include every living dumb creature as defined under Florida Law.

Animal Control Administrator shall be defined as that person in charge of the administration of Animal Control.

Animal Control Authority shall be defined as the administrative and governing body tasked with Animal Control and Animal Services for Polk County. The Animal Control Authority shall be designated by the Board of County Commissioners as an entity acting alone or in concert with other local governmental units and authorized by them to enforce the Animal Control laws of the city, county, or state.

Animal Control License Program Authority shall be designated by the Animal Control Authority to provide animal licensing services.

Animal Control Officer, shall be defined as any person, pursuant to 828.03, Florida Statute, employed by the Animal Control Authority for animal control purposes or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. 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 shall be defined as an animal found off the premises of the owner or custodian, and not under the direct control, custody, charge, or possession of the owner or other custodian. This animal is identified at the time of impoundment or thereafter.

Business days shall be defined as the hours of operation for the business office of the Animal Control Authority.

Cat shall be defined as the domestic cat, felis catus.

Companion animal shall be defined as any animal that lives with and about the habitat of a human, as a pet, and that is dependent upon that human for its survival. Excluded from this definition is indigenous and non-indigenous wildlife, under the exclusive jurisdiction of the state,

animals used in connection with pari-mutuel wagering, or animals raised in connection with food or fiber industries.

County, County Commissioners, Board or Board of County Commissioners shall be defined as the Board of County Commissioners of Polk County, Florida.

Dangerous dogs shall be defined in accordance with Section 767.11, Florida Statutes.

Direct control shall be defined as immediate and continuous physical control of an animal at all times such as by means of a fence, leash, cord or chain of sufficient strength to restrain the same; or in the case of specifically trained or hunting animals which immediately respond to such commands, direct control shall also include aural or oral control, if the controlling person is at all times clearly and fully within the unobstructed sight and hearing of the animal.

Dog shall be defined as, but is expressly not limited to, domestic dog, *canis familiaris*, and any genetic hybridization thereof, including but not limited to wolf hybrids and coyote hybrids that are not regulated by the Florida Wildlife Commission.

Domestic Animal shall be defined as set forth in § 585.01, Florida Statutes.

Feral animal shall be defined as any animal that is born wild or has reverted to the wild and that is unsocialized, untamed, or unable to be approached or handled.

Guard Dog shall be defined as any type of dog used primarily for the purpose of defending, patrolling, or protecting individuals or property at any commercial establishment. It does not include any dog that is owned, or the service of which is employed, by a law enforcement agency, used as a service dog for blind, hearing impaired, disabled persons, or any stock dog used primarily for handling and controlling livestock or farm animals.

Hearing Officer shall be an attorney and/or retired judge who is a member in good standing with the Florida Bar and a resident of Polk County, Florida, appointed by Resolution of the Board of County Commissioners to serve for a term of one year; they may be reappointed at the end of each term. An appointment to fill a vacancy shall be for the remainder of the unexpired term of office.

Livestock shall be defined as set forth in § 585.01, Florida Statutes.

Notification shall be defined as Animal Control's ability to notify the owner or custodian of an animal through the following methods; personal notification, notification by mail, posting the owner or custodian's property, or posting of the owner or custodian's residence.

Officer, when used alone, shall have the same meaning as provided under Section 828.27, Florida Statutes: Any law enforcement officer defined in Section 943.10, Florida Statutes, or any Animal Control Officer.

Offense shall be defined as any violation of this Ordinance.

Overcrowding of the Animal Control facility: The Animal Control Administrator or designee shall monitor the occupancy rate of the facility to ensure the kennel area used to house animals is adequate to provide care for the animals taking into account the health of the animals, the desire to adopt and/or rescue as many as possible and the resources available to manage and care for the animals.

Owner/custodian shall be defined as any person, firm, corporation, partnership, trust, estate, business, or other legal entity, harboring, keeping, or having control or custody of an animal. In the case the owner is under 18 years of age, that person's parent or legal guardian will be responsible.

Service shall be defined as the delivery of judicial process in accordance with Chapter 48, Florida Statutes.

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

Stray shall be defined as any non-feral domestic animals found off of its owner's property without the owner's consent and without the consent to be on the property where the animal is found.

Valid license tag shall be defined as a current, Polk County license tag that is approved by the Animal Control Authority. Each tag issued will be valid for a period of time that is determined by the type of license tag issued, either single or multi year. The validity of such license tag shall not exceed the validity of the vaccine issued to the animal.

Veterinarian shall be defined as a person who is duly licensed to engage in the practice of veterinary medicine under the authority of Chapter 474, Florida Statute.

### **SECTION 3:** SCOPE

This article shall apply in all unincorporated areas of Polk County, and within the incorporated limits of each Polk County municipality, the governing body of which shall certify to the Board of County Commissioners that no charter provision or Ordinance is in conflict with this Ordinance.

### **SECTION 4:** RABIES VACCINATION AND TAGS

(a) Every owner of a dog or cat four (4) months of age and over shall cause such dog or cat to be vaccinated against rabies as frequently as required based on the effective period and the method of administration of the approved vaccine used. The approved vaccine may be for either a one (1) year or three (3) year period, depending on the vaccine used. The vaccination will be

properly administered and boosted where appropriate by a licensed veterinarian.

(b) Every owner of each dog or cat so vaccinated is required to purchase a valid license tag, as evidence of vaccination. The owner shall cause the dog or cat to wear a collar with a valid license tag at all times or implant the dog or cat with a RFID microchip, registered with the Animal Control Authority. License tags shall be valid for a maximum of 12 months, or until the expiration date of the vaccine, whichever is shorter. In the event a multi-year license tag is used the tag shall be valid for a maximum of three years or until the expiration of the vaccine, whichever is shorter.

(c) Cat owners may purchase cat identification collars approved by the county and allow their cat to wear said collars in lieu of tags. All identification collars must be marked in indelible black ink with the number of the cat's license tag. The price of the approved collars shall be set by the Animal Control Authority.

(d) Evidence of vaccination shall consist of an appropriate certificate signed by the licensed veterinarian administering the vaccine and will contain pertinent data for identification of the specific dog or cat. The veterinarian shall provide one copy of the certificate to the owner, one copy to the Animal Control License Program Authority, and one copy will be retained by the licensed Veterinarian, as described in paragraph (a) above, administering vaccine.

(e) Proof of altered status for all animals for purposes of this Ordinance shall consist of a sterilization certificate issued by a licensed veterinarian, given to the animal's owner, stating that the specific animal has been sterilized. The certificate must contain data identifying the specific animal including the name, type, age, sex, color, and breed of the animal; the name and address of the owner; the veterinarian that altered the animal and his or her address and phone number. A rabies vaccination certificate, as certified by an appropriately licensed veterinarian, in which the licensed veterinarian certifies that an animal has been spayed or neutered, shall also constitute proof of sterilization.

(f) The license tag shall be furnished by the Animal Control License Program Authority to the pet owner. The license tag will be furnished after the pet owner provides proper documentation of the animal's current vaccination. A license tag shall be purchased for each dog or cat each year, or in the event a multi-year license is used, at the expiration of the previous license tag.

(g) A genetic hybrid of dog not regulated by the Florida Wildlife Commission, such as the wolf-dog, is exempt from the rabies vaccination requirements of this section due to the Florida Rabies Control Compendium not recognizing a rabies vaccination for wildlife. However, all owned genetic hybrid dogs residing in Polk County shall be implanted with an RFID microchip and the owner shall purchase an annual non-vaccination license tag from the Animal Control

License Program Authority and cause it to be worn by their hybrid at all times.

(h) No later than the fifteenth (15<sup>th</sup>) day of each month, each veterinarian practicing in Polk County shall submit to the Animal Control License Program Authority Form 51 "Rabies Vaccination Certificate" or an equivalent form approved by the Animal Control Authority for each domestic animal they have vaccinated against rabies for the previous month. The list shall be in accordance with section 828.30, Florida Statutes.

**SECTION 5:** VACCINATION, STERILIZATION AND IMPLANTATION OF RADIO FREQUENCY IDENTIFICATION (RFID) MICROCHIPS FOR ANIMALS BEFORE RELEASE FROM ANIMAL CONTROL SHELTER; ADOPTION

(a) All animals four (4) months of age or older which are impounded, quarantined or otherwise in the possession of Animal Control, and which do not have proof of a current rabies vaccination shall receive a rabies vaccination and license tag prior to being released from the custody of Animal Control. If Animal Control is unable to vaccinate the animal for any reason, the owner or custodian of the animal is required to sign a form agreeing to have the animal vaccinated by a licensed veterinarian within three (3) days from the date of release and subsequently purchase a valid license tag from the Animal Control License Program Authority.

(b) An animal whose owner is in possession of proof of a current rabies vaccination approved by National Association of State Public Health Veterinarians and administered by a duly licensed veterinarian shall be issued a valid license tag from the Animal Control License Program Authority prior to release. Valid license tags will be good from the date of issuance for a period of twelve (12) months, or for the duration of a multi-year license, depending on the type issued. In no event, will the validity of the license tag exceed the expiration date of the vaccine used to inoculate the animal.

(c) No, at-large, unaltered dog or cat impounded more than twice, in an eighteen month period, may be redeemed by any person until the animal is spayed or neutered. The sterilization shall be accomplished by the shelter veterinarian or upon the owner's request by transporting the animal, by Animal Control personnel, to any duly licensed veterinarian in Polk County. In all cases, the animal's owner shall not hold liable Polk County or the Board of County Commissioners, individually or in their official capacity, and all members of the Animal Control Authority, individually and in their official capacity, and all of their employees, appointees, contractors, sub-contractors, and agents from any and all liability, for any and all claims, causes of action, demands or damages, and costs (to include reasonable attorney's fees) present, past and future, contingent or otherwise, arising from the spay or neuter of such dog or cat. The owner is responsible to pay the veterinarian fees prior to redemption.

(d) If the owner elects for the animal to be transported to a duly licensed veterinarian in Polk County, the owner shall:

(1) Present proof of payment for the spay or neuter service to the Animal Control

Authority; and

(2) Pay transport fee to Animal Control; and

(3) Present date and time of scheduled appointment for procedure to Animal Control Authority.

(e) Alteration shall not be required upon showing proof of alteration from a licensed veterinarian or providing a written notarized statement from a licensed veterinarian stating the spay or neuter procedure would be harmful to the animal.

(f) If the animal is sterilized at the shelter prior to being released, the owner shall pay the altered animal license tag fee.

(g) Proof of sterilization for all animals shall consist of a sterilization certificate issued by a licensed veterinarian to the animal and its owner stating the specific animal has been sterilized. The certificate must contain data identifying the specific animal including the name, type, age, sex, color, and breed of the animal; the name and address of the owner; the name, address, and telephone number of the veterinarian who altered the animal. A rabies vaccination certificate from a duly licensed veterinarian stating an animal has been spayed or neutered shall also constitute proof of sterilization. It is the animal owner or custodian's responsibility to provide this information to Animal Control, upon request.

(h) All dogs and cats redeemed by an owner shall have an RFID microchip implanted prior to leaving the shelter if the animal does not currently have one. The owner of the animal shall pay the costs for the implantation of the microchip at the time of redemption. The implantation of the microchip shall not be required if the owner redeeming the animal provides a written notarized statement from a licensed veterinarian stating the microchip procedure would be harmful to the animal. All dogs and cats adopted from Polk County Animal Control will be surgically sterilized and have a microchip implanted prior to being released to the prospective adoptive owner. All applicable fees must be paid prior to release of an animal subject to this section.

## **SECTION 6:** FEES

(a) Veterinarians who distribute animal control tags shall charge the fee set by the Animal Control Authority. Veterinarians who purchase their tags from the Animal Control Licensing Program Authority shall receive a discount on the retail price for animal tags. The discount amount shall be set by the Animal Control Administrator.

(b) The Animal Control Authority may change or set fees to be charged by Animal Control. Such fees will post on the Animal Control Authority website.

(c) Animal Control Authority shall set and maintain a fee schedule for the following:

- (1) Single year license tags for altered cats and dogs;
- (2) Single year license tags for unaltered cats and dogs;
- (3) Multi-year license tags for altered cats and dogs;
- (4) Multi-year license tags for unaltered cats and dogs;
- (5) Late fee for failure to renew licenses within thirty days from its expiration date;
- (6) Issuance of a duplicate tag if the original is lost;
- (7) Animal Impound fee, first impound;
- (8) Animal Impound fee, second impound;
- (9) Animal Impound fee, third and subsequent impounds;
- (10) Daily boarding fee, non-quarantined animals;
- (11) Daily boarding fee, quarantined animals;
- (12) Adoption fee;
- (13) Vaccination fee;
- (14) Microchip fee;
- (15) Sterilization fee;
- (16) Sterilization transport fee;

(d) In addition to all other fees assessed in any other section of this Ordinance, there shall be an additional charge of five dollars (\$5.00) upon each civil penalty imposed for violation of the Polk County Animal Control and Animal Services Ordinance. These fees shall be used to pay the costs of training for Animal Control officers.

**SECTION 7:** DUTIES OF OWNERS OR CUSTODIAN; RUNNING AT LARGE;  
FALSELY IDENTIFYING AN UNALTERED CAT OR DOG AS ALTERED

(a) No person shall keep, use, or maintain a dog on any premises unless the dog is provided access to covered structure, dog house, or similar shelter for protection against inclement weather at all times.



(b) No person owning or having custody or control of any dog or unaltered cat shall cause, permit, or allow the animal to stray or run at large in or upon any public street, sidewalk, park, other public property, or private property of another. Such animal must be leashed, or, if it is a dog, the dog must be under the direct control of the person in custody of the animal. This section shall not apply to any dog actually engaged in the sport of hunting in authorized areas at authorized times and supervised by a competent person.

(c) It shall be unlawful for the owner or custodian of any animal to permit said animal to be within an area designated as an animal exercise park unless said owner or custodian is physically present and in direct control of the animal at all times while the animal is within said area.

(d) Violation of this section, including misrepresenting an unaltered cat or dog as altered, shall be punishable as provided in this Ordinance.

#### **SECTION 8:** ABANDONMENT OF ANIMALS

(a) Any animal in the custody of the Animal Control Authority for a period of more than ten (10) days, shall be declared abandoned after written notice is given to the owner or the owner's agent, if known, at her or his last known address. Animals abandoned in accordance with this section shall immediately become the property of the Animal Control Authority and may be disposed of as they see fit.

(b) Any law enforcement officer or Animal Control Officer appointed under Section 828.03, Florida Statutes, may lawfully take custody of any animal found abandoned on the property of another by removing the animal from its present location.

#### **SECTION 9:** HOLDING PERIODS; DISPOSITION OF UNCLAIMED ANIMALS; QUARANTINE

(a) The following holding periods are hereby established for animals picked up by, or turned in to the Animal Control Authority, excluding animals surrendered to the Animal Control Authority by their owner or custodian. Animals surrendered to the Animal Control Authority by their owner or custodian shall immediately become property of Animal Control Authority and will be subject to the disposition options outlined in this Ordinance.

(1) Healthy animals wearing a current, valid tag, collar with license or owner contact information, implanted with a RFID microchip: seven (7) calendar days, excluding the day of impoundment.

(2) Healthy animals not wearing a current, valid tag, collar with owner contact information, or implanted with a registered RFID microchip: A minimum of four (4) calendar days, excluding the day of impoundment.

(3) Diseased, feral, or injured animals, whether tagged or untagged: The Animal Control Authority may euthanize any animal if deemed necessary for the wellbeing of the animal, to prevent suffering or for the health of other animals in the facility.

(b) Any animal, of which the owner is identified, that is held under quarantine at Animal Control, will be considered unclaimed if not picked up on or before the third day following the quarantine. If not claimed on or before the third day following the quarantine, the animal will be disposed of as necessary. Disposition shall include adoption, rescue, or euthanasia.

(c) Notwithstanding the foregoing, the Animal Control Administrator, or designee may reduce any holding period in the event of overcrowding or a local state of emergency.

#### **SECTION 10:** IMPOUNDING OF ANIMALS RUNNING AT LARGE

(a) Animal control officers are authorized to impound any animal if that animal is at-large, or astray, and may lawfully enter onto private property when in pursuit of the animal.

(b) Animal control officers are authorized to impound cats, including a feral cat colony, or any of its members and may lawfully enter onto private property when in pursuit of the animal if:

(1) The cat or cats create public health and safety concerns (including rabies and other zoonotic diseases and certain animal to animal disease); or

(2) The cat or cats create a nuisance as defined in section 11a (1) or (2).

#### **SECTION 11:** COMPANION ANIMAL CREATING NUISANCE

(a) Any owner or custodian of a companion animal shall be deemed to be maintaining a nuisance in violation of this Ordinance that:

(1) Continuously barks, whines, howls, meows, cries, or causes other objectionable noises resulting in an unreasonable annoyance to neighboring residents, interference with the comfortable enjoyment of life, or interference with the comfortable enjoyment of property:

(a) On two separate incidents of, at least, fifteen (15) minutes continuously within a fourteen-day period between the hours of 6:00 a.m. and 9:00 p.m.; or

(b) A single period of, at least, fifteen (15) minutes continuously between the hours of 9:00 p.m. and 6:00 a.m.

(2) Disturbs the peace by destroying, or soiling public or private property, or causing injury, or threatening to cause injury to any person or domestic animal or property other than that of the owner or custodian, or other similar conduct or behavior twice within a three year period.

(3) Animal control officers will question the complainant and determine their location in regard

to the incident.

(a) The complaint must be specific as to time and date of violation. The animal control officer will pay specific attention to the question of provocation prior to issuing a notice of violation or citation.

(b) The owner or custodian of the animal causing the alleged noise nuisance will be notified of the complaint against him or her, and shall correct the nuisance violations within twenty-four (24) hours of notification.

(c) After notification of the alleged noise nuisance has been provided to the owner or custodian by the Animal Control Authority, subsequent reports of noise nuisance violations shall result in the issuance of a citation by the Animal Control Officer.

(d) After notification of the alleged non-noise nuisance has been provided to the owner or custodian by the Animal Control Authority, the owner or custodian shall abate the nuisance within twenty-four (24) hours.

(4) If after twenty-four (24) hours, the non-noise nuisance is not corrected, the owner or custodian of the animal causing the alleged nuisance shall be issued a citation.

(b) No owner of a properly zoned commercial kennel or owner of a security dog which is located on commercially or industrially zoned property shall be subject to the provision of this section as it relates to dogs or cats which habitually bark, whine, howl, meow, cry, scream or cause objectionable noises.

(c) Upon receipt of a sworn complaint affidavit from a citizen, or a statement from an officer alleging a violation of this section, an officer may cause to be issued a notice of violation to any animal owner or custodian alleged to be in violation of this section. Said affidavit shall specify the address or location of the alleged violation; the nature, time and dates of the alleged violations; the name and address of the custodian of the animal, if known; a description of the animal, if known.

(d) If a citation is not issued to the owner or custodian of the animal as a result of a complaint, described in subsection (c) of this section, an affidavit, as described in subsection (c) of this section, shall only remain valid for a period of 90 days following the date of notification to the animal owner or custodian.

(e) Nothing in this section shall prohibit any officer from investigating an oral complaint, notifying, and citing a violator upon obtaining evidence of the violation.

**SECTION 12:** PROTECTING THE PUBLIC HEALTH OR SAFETY; SEIZING SICK OR INJURED ANIMALS

If an animal whose owner cannot be located, or will not answer the door, is suspected of being sick, injured, or has inflicted injury on another person or animal, or has approached another person or animal in a menacing fashion or apparent attitude of attack, while off its owner's property, the animal may immediately be picked up, trapped, or captured by remote chemical

immobilization from public or private property, if, upon probable cause, the Animal Control Officer determines that the seizure is necessary for public health, safety, or to prevent the animal from suffering.

**SECTION 13:**      RESIDENTS CAPTURING AT-LARGE ANIMALS

A property owner or tenant may seize, in a humane manner, any animal at-large on his or her property in violation of this Ordinance. When such a seizure is made, the person shall immediately deliver the animal to an Animal Control Officer.

Any person who captures an animal pursuant to this section shall exercise care to treat the animal humanely, without causing injury, sickness, hunger, or any other ailments to the animal during seizure and delivery of the animal. Any person unable to comply fully with this section shall not seize any animal pursuant to this section. Failure to comply with this section may result in the filing of a cruelty charge, as described in Chapter 828, Florida Statutes.

**SECTION 14:**      GUARD DOG STANDARDS

(a) The following minimum requirements shall apply to each business or individual owning, possessing, and/or utilizing any guard dog in Polk County:

(1) All animals in the care, custody or control of a business or individual must be treated in a humane manner at all times.

(2) All guard dogs shall have current vaccinations, valid Polk County licenses, and be implanted with an RFID microchip.

(3) Records must be maintained and kept current for each animal in the care, custody or control of the business or individual which include, at a minimum, the following information:

(a) The name, address, and telephone number of the legal owner of the animal;

(b) Current vaccination records;

(c) The name, address, and telephone number of the attending veterinarian;

(d) Records of any medications administered to the animal that includes the date, time, and dosage amount;

(e) The animal's photograph and corresponding RFID microchip number.

**SECTION 15:**      RESTRICTIONS ON COMMERCIALLY SUPPLIED GUARD DOGS;  
INABILITY TO USE DANGEROUS DOG; REQUIREMENTS OF  
USERS

(a) Every commercial guard dog business supplying guard dogs in Polk County shall comply with the following requirements:

(1) Every guard dog shall be examined by a veterinarian on an annual basis and certified to be healthy, free from internal and external parasites, and physically fit for service as a guard dog. It is the commercial guard dog owner's responsibility to provide this information to the Animal Control Authority, upon request.

(2) Newly acquired guard dogs owned, possessed, and or utilized in Polk County must be properly vaccinated and records maintained in accordance with Section 14 of this Ordinance.

(b) In the event a guard dog is transferred to another owner, allegedly bites or attacks a human being or another animal, dies, or disappears, the guard dog business shall immediately notify the Animal Control Authority.

(c) Any vehicle used to commercially transport guard dogs must be clearly marked and must be maintained and arranged to ensure maximum ventilation and protection for the animals.

(d) Any guard dog previously declared or classified as a dangerous dog in accordance with this Ordinance or Chapter 767, Florida Statutes, shall be ineligible to serve as a guard dog.

**SECTION 16:**            REQUIREMENTS OF PERSONS UTILIZING GUARD DOG

(a) Any person who owns, possesses, and/or utilizes a guard dog in Polk County must provide proper fencing to secure the guard dog(s) and prevent the animal(s) from digging, jumping, or escaping the confines of the property.

(b) If the guard dog is confined to an area that does not allow for sufficient exercise, the guard dog must be provided with minimum daily exercise, unless a veterinarian issues a written medical exception.

(c) At each entry point, and at 100 foot intervals along the fence perimeter, a sign shall be posted that includes the words "DANGER - GUARD DOG".

(d) Each entry point must have a sign posted with the telephone number of the guard dog's trainer, handler, and/or owner in case of an emergency.

(e) CONFISCATION – Any guard dog found, while working in its official capacity, to be in violation of any section of this Ordinance shall be immediately confiscated and held by the Animal Control Authority for a maximum of ten (10) business days. At the conclusion of the ten-day period if not redeemed, by the guard dog owner, said dog will be subject to the disposition options outlined in this Ordinance.

(f) Property owners, renters, or lessees' of said guard dogs shall not hold liable the Animal Control Authority, Polk County or the Board of County Commissioners, individually or in their official capacity, and all members of the Animal Control Authority, individually and in their official capacity, and all of their employees, appointees, contractors, sub-contractors, and agents from any and all liability, for any and all claims, causes of action, demands or damages, and costs (to include reasonable attorney's fees) present, past and future, contingent or otherwise, arising from the confiscation of said guard dog.

**SECTION 17:**           PENALTIES FOR GUARD DOG VIOLATION

(a) For any violation of this ordinance as it pertains to guard dogs, the Animal Control Officer shall issue a citation for a fine in the amount of one hundred dollars (\$100.00) for the first offense per animal, per occurrence. The second offense occurring within three (3) years shall require a fine in the amount of three hundred dollars (\$300.00) per animal, per occurrence. Subsequent offenses occurring within three (3) years of the previous occurrence shall be punishable by such monetary penalty as the court may impose, not to exceed five hundred dollars (\$500.00) per animal, per occurrence.

(b) Citations relevant to this Ordinance, excluding sections 14 and 15, shall be issued to the person(s) possessing or utilizing the guard dog. Citations relevant to section 15 of this Ordinance shall be issued to the commercial guard dog business supplying the guard dog.

**SECTION 18:**           CLASSIFICATION OF DOGS AS DANGEROUS

(a) The provisions of Chapter 767, Florida Statutes, as may be amended, pertaining to s are adopted in their entirety as a part of this Ordinance. All procedures, regulations, requirements, and restrictions pertaining to dangerous dogs are applicable under this Ordinance, and a violation of the statute shall constitute a violation of this Ordinance.

(b) Within 14 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, the owner of the Dog must obtain a Dangerous Dog certificate of registration from Animal Control Services. It is a violation of this article for the Owner of a Dog classified as dangerous to refuse or fail to obtain a Dangerous Certificate of Registration as required by this subsection. The certificate shall be renewed annually. Such certificates shall be issued only to Persons who are at least 18 years of age and who present to Animal Services sufficient evidence of:

- (1) A current certificate of rabies vaccination for the Dog;
- (2) A Secure Enclosure to confine a Dangerous Dog and the posting on the premises with a clearly visible warning sign at each entry point that informs both children and adults of the presence of a Dangerous Dog on the property; and
- (3) Permanent identification of the Dog, such as a tattoo on the inside thigh or ear or electronic implantation.

(4) Spay or neuter dangerous animals within ten (10) days of declaration and provide Animal Control documentation of such after completion.

(c) It is a violation of the article for the Owner of an Animal classified as Dangerous to refuse or fail to sign the Affidavit acknowledging the Animal has been declared Dangerous and that he or she has complied the requirements set forth above in section (b). Failure to sign the Affidavit will result in the issuance of a citation for a violation of this article.

(d) As a condition to each dog's classification, any animal control officer or law enforcement officer shall, at any reasonable hour, have the right to inspect the owner's premises to determine compliance with Chapter 767 Florida Statutes and the Polk County Ordinance. It shall be unlawful for an owner to deny the animal control officer or enforcement officer access to inspect the outside of the owner's premises to determine compliance as provided in this section.

(e) Failure to comply with Chapter 767, Florida Statutes, and Polk County Ordinance as they may be amended, pertaining to dangerous dogs may result in a fine not to exceed \$500.00.

**SECTION 19:** DANGEROUS DOG HEARING PROCEDURES

(a) A hearing officer appointed by the Polk County Board of County Commissioners shall impartially preside over the hearing.

(b) The hearing shall be informal, the rules of evidence and civil procedure shall not apply, but fundamental due process shall be observed and govern the proceedings. The hearing officer shall decide the issues based upon the preponderance of the evidence and the decision shall be final.

(c) After conducting the hearing, the hearing officer shall issue a determination within seven (7) days of the hearing. All determinations of the hearing officer shall be in writing, signed, and dated by the hearing officer, shall contain findings of fact and conclusions of law, and shall be served upon the owner by registered mail, certified hand delivery (signed receipt), or service in conformance with the provisions of Chapter 48, Florida Statutes, as amended, relating to service of process.

**SECTION 20:** SURRENDER OF ANIMAL BY OWNER

An animal may be surrendered into the Animal Control Authority, and when surrendered it will immediately become the property of the Animal Control Authority to be disposed of as they see fit.

**SECTION 21:** DUTIES AND AUTHORITY OF OFFICERS

It shall be the duty of all Animal Control Officers, Deputy Sheriffs, or local Police Officers to enforce this Ordinance and its amendments, if any. An Animal Control Officer is hereby

authorized to issue citations and notices to appear for the violation of this Ordinance when the officer has reasonable and probable grounds to believe that a violation of this Ordinance has occurred.

**SECTION 22:** INTERFERENCE WITH OFFICERS

No individual shall interfere with an Animal Control Officer while in the legal performance of his or her duties. This includes but is not limited to, striking or attempting to strike the Animal Control Officer; providing the Animal Control Officer with false information; taking or attempting to take any animal from any Animal Control Officer in the legal performance of his or her duties, from any official vehicle used by the Animal Control Authority to transport animals, or from the Animal Control Authority Facility without proper authority; or to taking or damaging any county property used in conjunction with the legal performance of the Animal Control Officer's duties. In addition to constituting a violation of this Ordinance, such action may be punishable pursuant to Section 838.021, Florida Statutes.

**SECTION 23:** PENALTIES FOR VIOLATION

Except where specified under certain sections of this Ordinance, violation of any provision in this Ordinance, and its amendments, if any, is a civil infraction.

(a) For violation of the section relevant to vaccination and tags, the Animal Control Officer shall have the discretion to issue a Notice of Violation with no civil penalty or issue a citation for a fine in the amount of sixty dollars \$(60.00) for the first offense. The second offense occurring within three (3) years, whether the first offense resulted in a Notice of Violation or a fine, shall require a fine in the amount of one hundred dollars (\$100.00). Subsequent offenses occurring within three (3) years of the previous occurrence shall be punishable by such monetary penalty as the court may impose, not to exceed five hundred dollars (\$500.00) per animal. Fines will be assessed per animal found in violation of the section of the Ordinance relevant to vaccination and tags. Issuance of a citation or Notice of Violation to an adult member of the household in which an animal resides shall be deemed an offense, and knowledge of the citation or Notice of Violation will be imputed on all the members of the household.

(b) For violation of the section of this Ordinance relevant to nuisance, the Animal Control Officer shall issue a Notice of Violation with no civil penalty for the first offense. The first offense after the Notice of Violation will result in a citation being issued with a fine in the amount of seventy five dollars (\$75.00) per occurrence. The second offense after the Notice of Violation, occurring within three (3) years, shall require a fine in the amount of one hundred seventy five dollars (\$175.00) per occurrence. Subsequent offenses shall be punishable by such monetary penalty as the court may impose, not to exceed five hundred dollars (\$500.00) per occurrence or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both a fine and imprisonment. For animals on land zoned for agricultural purposes, the



maximum possible penalty shall be five hundred dollars (\$500.00) only.

(c) For violation of the section of this Ordinance relevant to duties of owner or custodian, running at large, or falsely identifying an unaltered animal as altered, the Animal Control Officer shall have the discretion to issue a Notice of Violation with no civil penalty or issue a citation for a fine in the amount of seventy-five dollars (\$75.00) per occurrence for the first offense for an altered animal; two hundred fifty dollars (\$250.00) per occurrence for an unaltered animal. The second offense occurring within three (3) years, whether the first offense resulted in a Notice of Violation or a fine, shall require a fine of one hundred-fifty dollars (\$150.00) per occurrence for an altered animal; five hundred dollars (\$500.00) per occurrence for an unaltered animal. Subsequent offenses occurring within three (3) years of the previous occurrence shall be punishable by such monetary penalty as the court may impose, not to exceed five hundred dollars (\$500.00) per occurrence. If the owner presents proof that the animal is altered, within five (5) days of the offense, or within five (5) days of the quarantine release date, the owner shall pay the altered animal fine (This provision does not apply where the owner or custodian of the animal falsely identified the animal as altered.). The issuance of a citation for falsely identifying an unaltered animal as altered, does not preclude issuance of a citation for allowing the falsely identified animal to run at large.

(d) For violation of the section of this Ordinance relevant to interference with any Animal Control Officer, the civil penalty shall be in the amount of two hundred and fifty dollars (\$250.00), per officer, for the first offense. Subsequent offenses occurring within three (3) years of the last offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per officer.

(e) If an animal scratches, bites, or physically injures any person while running at large, not properly vaccinated, not properly tagged, the offense shall require a fine of two hundred dollars (\$200.00), in addition to any other applicable fine for a first offense. The subsequent offenses occurring within three (3) years shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per occurrence.

(f) If an animal has severely injured or killed a domestic animal while off the owner's property, the offense shall require a fine of one hundred dollars (\$100.00), in addition to any other applicable fine for a first offense. The subsequent offenses occurring within three (3) years shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per occurrence.

(g) All fines may be changed by resolution of the board.

#### **SECTION 24:**     FORM OF CITATION AND NOTICE

(a) Pursuant to Section 828.27(1)(f), Florida Statutes, citations and notices to appear issued by an officer shall be in a form prescribed by the Board of County Commissioners and shall state, at a

minimum, the following:

- (1) The date and time of issuance.
- (2) The name and address of the person.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The ordinance violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty, to contest the citation, or to appear in court as required under section 828.27(6), Florida Statutes.
- (8) The applicable civil penalty, pursuant to section 23 of this Ordinance, for the violation.
- (9) If applicable, a twenty-five percent (25%) reduction in the civil penalty amount if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived his or her right to contest the citation and judgment may be entered against the person for an amount up to the applicable civil penalty as well as an additional late fee assessed by the clerk and recording fees.
- (11) A conspicuous statement that if the person is required to appear in court, as mandated by Section 828.27(6), Florida Statutes, he or she does not have the option of paying a fine in lieu of appearing in court; nor is the person entitled to a twenty-five percent (25%) reduction in the civil penalty amount.

**SECTION 25:**       PROCEDURE UPON CITATION

- (a) Any person cited for violation of this Ordinance shall be deemed charged with a non-criminal infraction. Any person cited for an infraction under this Ordinance shall sign and accept a citation acknowledging receipt of the citation and indicating a promise to appear in county court, if such person wishes to contest the charge(s). Failure to sign and accept the citation shall be punishable as provided in Section 828.27(5), Florida Statutes.
- (b) The applicable fine shall be reduced by twenty-five percent (25%) if the person who has committed the civil infraction does not contest the citation. The payment must be postmarked or received by the clerk's office no later than thirty (30) calendar days from the date the citation

was issued. If the person cited pays the applicable fine, he or she shall be deemed to have admitted the infraction and waived his or her right to a trial.

(c) In order to contest a citation, the person must deliver or send a copy of the citation along with a written request for a hearing to the Clerk's Office; such requests must be received or postmarked no later than thirty (30) calendar days from the date of the citation. Upon receipt of the request for hearing, the Clerk's Office will set a hearing date and send notice to the person contesting the citation.

(d) If a person fails to pay and fails to request a hearing within thirty (30) days of receipt of the citation, the Clerk's Office shall issue a Notice to Appear. The clerk shall assess a ten-dollar (\$10.00) fee for each penalty paid after the initial thirty (30) day period. The late fee will be retained by the clerk's office for the purpose of defraying operating expenses.

(e) If a person has failed to pay the fine and applicable late fee, and fails to appear in court to contest the citation, the court may issue an order to show cause upon the request of the Animal Control Authority. This order shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court. In addition, failure to pay the civil penalty shall result in the recording of a lien in the amount of the civil penalty, late fee, and recording fees.

(f) In the event an animal is impounded for violation of this Ordinance and the owner of the animal abandons or surrenders the animal to the Animal Control Authority, the owner remains liable for the civil penalties imposed for violation of this Ordinance.

**SECTION 26:** CITATION CONSTITUTES WARNING TO HOUSEHOLD

Issuance of a citation, warning, or a Notice of Violation to an adult member of the household in which an animal resides shall be deemed notice of the citation, warning, or Notice of Violation to all members of the household.

**SECTION 27:** POLK COUNTY ORDINANCE 10-001 AND ALL AMENDMENTS THERETO, INCLUDING WITHOUT LIMITATION, ORDINANCE 13-035 ARE HEREBY REPEALED.

**SECTION 28:** SEVERABILITY

If any provision or application of this Ordinance is for any reason held invalid, such invalidity shall not affect the remaining provisions or applications of this Ordinance, which provision, or application and, to this end, the provisions of this Ordinance are declared severable.

**SECTION 29:** EFFECTIVE DATE

A certified copy of this Ordinance shall be filed with the Florida Department of State. This Ordinance shall take effect upon the receipt of acknowledgment that the Ordinance has been filed with the Department.

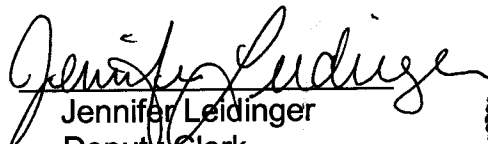
**ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY,  
FLORIDA** this 2nd day of October, 2018

STATE OF FLORIDA     )  
                                  )  
COUNTY OF POLK     )

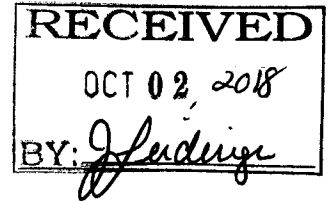
I Stacy M. Butterfield, County Clerk and Comptroller for Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No.18-068 adopted by the Board on October 2, 2018.

WITNESS my hand and official seal on this 2nd day of October, 2018.

STACY M. BUTTERFIELD, CLERK

By:   
Jennifer Leiding  
Deputy Clerk





## FLORIDA DEPARTMENT of STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

October 2, 2018

Ms. Jennifer Leidinge, Deputy Clerk  
Finance and Accounting  
Post Office Box 988  
Bartow, Florida 33831-0988

Dear Ms. Leidinge:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Polk County Ordinance No. 18-068, which was filed in this office on October 2, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb