

ORDINANCE NO.: 2002- 06

AN ORDINANCE OF BAKER COUNTY, FLORIDA AMENDING ORDINANCE 96-20 BY DELETING ALL TEXT THEREIN AND REPLACING SAME WITH PROVISIONS ESTABLISHING ANIMAL CONTROL WITHIN BAKER COUNTY; EMPOWERING THE BOARD OF COUNTY COMMISSIONERS TO ENACT RULES AND REGULATIONS TO FURTHER IMPLEMENT SAME; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE CONSTRUCTION AND MAINTENANCE OF POUNDS; REQUIRING VACCINATION OF DOGS, CATS AND FERRETS; PROHIBITING ANIMALS AT LARGE; PROHIBITING EXCESSIVE NOISE FROM DOMESTICATED ANIMALS; REGULATING DANGEROUS ANIMALS/DOGS; PROVIDING FOR THE SEIZURE, DESTRUCTION AND DISPOSAL OF IMPOUNDED ANIMALS; PROVIDING FOR THE SEIZURE OF ANIMALS BY PROPERTY OWNERS OR TENANTS; PROVIDING FOR THE QUARANTINE OF CERTAIN ANIMALS; PROVIDING FOR THE SURRENDER OF ANIMALS; PROVIDING FOR ENFORCEMENT AND ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF; PROVIDING FOR LIBERAL CONSTRUCTION; PROVIDING FOR AREAS OF ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01 Florida Statutes, authorizes the Board of County Commissioners of Baker County to provide and maintain for the citizens of said County standards which insure their health, safety and welfare; and

WHEREAS, Section 828.27, Florida Statutes specifically authorizes the Board of County Commissioners of Baker County to enact a local animal control ordinance; and

WHEREAS, the Board of County Commissioners of Baker County recognizes that the public health, safety, and welfare of the citizens of Baker County will be best served by an animal control ordinance

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

Section 1. Short title; purpose.

This article shall be referred to as the "Baker County Animal Control Ordinance" and is enacted to regulate animal owners and keepers in the interest of the health, safety and welfare of the citizens of Baker County, as confirmed by Sections 125.01 and 828.27, Florida Statutes.

Section 2. Definitions.

For the purpose of this article, the following words and terms shall have the following meanings:

A. **ANIMAL** means a dog or cat, any bird, reptile, rodent or other animal having an identifiable owner or keeper, or any skunk, raccoon, opossum or fox which intrudes upon either residential property where the humane trapping and removal of animals has been requested by the owner, his agent or tenant, or the relevant government body.

B. **ANIMAL AT LARGE** means any animal, other than a cat, which is not under the control, custody, charge or possession of the owner or its responsible person, by leash, chain, effective voice command, secure fence or other means of confinement or restraint.

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C. **ANIMAL CONTROL DEPARTMENT** means the liaison to the Baker County Board of County Commissioners with authority to carry out the provisions of this ordinance and lawsuits or both, including the department head and animal control officers.

D. **ANIMAL CONTROL OFFICER** means any person employed or appointed by the county and 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.

E. **BOARD** means the Board of County Commissioners of Baker County, Florida.

F. **CITATION** means a written notice, issued to a person by an officer when that officer has probable cause to believe that the person has committed a civil infraction or violated this ordinance and thereby referring the charge to county court for disposition. The citation must contain the following information:

- (1) The date and time of issuance.
- (2) The name and address of the person(s) who is alleged to have committed the infraction.
- (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, or to contest the citation, or to appear in court as required under subsection (6).
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.

F. **COLLAR OR TAG** means any identification collar and rabies tag.

G. **CONTROL** means the regulation of the possession, ownership, care, and custody of animals.

H. **DANGEROUS ANIMAL/DOG** means any animal/dog that according to the records of the appropriate authority:

- (1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property;

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(3) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or

(4) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

I. **DEPARTMENT HEAD** means the individual designated as the animal control department head by the Board to oversee the operation of animal control department and whom has overall responsibility for ensuring compliance with the provisions of this ordinance.

J. **EFFECTIVE VOICE COMMAND** means a voice control by a competent person which at all times prevents the animal subject to the voice control from running at large or otherwise violating the provisions of this article.

K. **KEEPER** means any person or corporation possessing or having custody of an animal.

L. **LAW ENFORCEMENT OFFICER** means any person who is elected, appointed, or employed full time by any municipality, county or any political subdivision thereof, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and

management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

M. **NEUTERED OR SPAYED** means rendered permanently incapable of reproduction by surgical alteration, implantation of a device or other physical means, or permanently incapable of reproduction because of physiological sterility, but only where such neutered or spayed condition has been certified by a veterinarian licensed in any state.

N. **NOTICE** means a notice to appear, unless the context of the article requires a different definition.

O. **NUISANCE** means any animal conduct or behavior, including but not limited to excessive noise by a domesticated animal, habitual or repeated destruction, desecration or soiling of any public or private property, habitual chasing of persons, cars or other vehicles, or running at large which causes a disturbance to the peace or causes injury or threat of injury to persons or property.

P. **OFFICER** means any animal control officer or law enforcement officer as described herein.

Q. **OWNER** means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal owned by a person under the age of 18, that person's parent or legal guardian.

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R. **PROPER ENCLOSURE OF A DANGEROUS DOG** means, while on the owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements.

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

T. **STRAY ANIMALS** means an animal that does not display the required indices of ownership or current vaccination as required by this ordinance and which is found upon public property or upon private property where the owner or tenant of that private property denies ownership of said animal.

U. **UNPROVOKED** means that the victim who has been conducting himself or herself peacefully and lawfully and has been bitten or chased in a menacing fashion or attacked by a dog.

Section 3. Authority to Enact Rules and Regulations.

This Board may enact reasonable rules and regulations to implement and carry out the provisions of this ordinance and retains the right to regulate or exempt certain animals from this ordinance and the right to regulate the numbers

and types of animals and conditions under which they may be maintained in residentially zoned areas.

Section 4. Construction; Maintenance of Pound; Purpose; Fees for Impounded Animals.

A. The Board may purchase, lease or construct, may operate and maintain, or may contract for the operation and maintenance of a county pound or subpounds to retain:

- (1) Animals at large;
- (2) Any dangerous animals not properly secured or restrained by their owner or keeper;
- (3) Animals having or believed to have rabies or other infectious or contagious diseases;
- (4) Dogs and cats not licensed and inoculated as required by this ordinance; or
- (5) Any animal otherwise owned, kept or maintained in violation of this ordinance.

B. The Board may charge reasonable fees for impounding animals under this ordinance. The owners or keepers of impounded animals shall pay fees and execute a sworn statement of ownership or responsibility as a condition precedent to release of an impounded animal. Fees collected shall be deposited in the general revenue fund of Baker County, and shall be used to defray expenses of administering this ordinance. The Board shall promulgate by resolution all charges to be paid under this ordinance.

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C. Notwithstanding the above, a dog or cat which is not licensed shall not be released from a county pound until provisions have been made to properly inoculate the animal for rabies.

Section 5. Animal Control Department Head; Appointment; Duties.

A. To carry out the purposes of this article, the Board or its administrator is authorized to:

- (1) Employ an animal control department head;
- (2) May enter into an agreement with a municipality to provide animal control services; or
- (3) Contract with a suitable person or organization to serve as animal control department head.

B. The department head and authorized animal control officers may catch, seize or pick up:

- (1) Any stray animal;
- (2) Any animal at large;
- (3) Any dangerous animal/dog not properly restrained or secured by the owner or keeper;
- (4) Any animal carrying or believed to be carrying rabies or other infectious or contagious disease;
- (5) Any sick or injured animal for which the owner or keeper cannot be found after reasonable effort to do so, or for which the owner or keeper is unable to provide proper care; or

(6) Any other animal authorized by this ordinance to be impounded, caught, seized or picked up.

C. The department head or authorized animal control officers or assistants shall impound and otherwise dispose of all animals lawfully caught, seized or picked up as provided under this ordinance.

D. The department head or authorized animal control officers or assistants shall investigate complaints or actions allegedly in violation of this ordinance and may issue citations.

E. Pursuant to law, the department head and authorized animal control officers and assistants may enter public or unfenced private property within the county, except residential buildings, to carry out the duties imposed by this ordinance.

Section 6. Vaccination of Dogs, Cats, and Ferrets.

A. Any person who owns or keeps a dog, cat or ferret four (4) months of age or older shall cause the dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian. Evidence of vaccination shall consist of a "rabies vaccination and license certificate" signed by the veterinarian administering the vaccination. A tag must be worn by the animal at all times. A license certificate and license tag issued for one (1) animal is not valid for any other animal.

B. Any nonresident who brings a dog, cat or ferret four (4) months of age or older into Baker County with the intent of residing within the county permanently or temporarily for a period of six (6) or more months shall obtain a license certificate and a license tag.

C. Vaccination is excused only if the owner or keeper can prove that the dog, cat or ferret has been vaccinated against rabies within the past six (6) months by a veterinarian licensed to practice in any state or if a licensed veterinarian certifies in writing that a vaccination would be injurious to the animal's health. In the latter case, the animal shall be kept in an enclosed building or kennel until the veterinarian can safely vaccinate the animal.

Section 7. Animals at Large; Owners' Responsibilities.

A. PROHIBITION; EXCEPTIONS. It is a violation of this ordinance for any owner or keeper of an animal other than a cat to willfully or negligently allow the animal to run at large on any public property or on any private property which is not the property of, or legally occupied by, the owner of such animal. Any animal under the close supervision of its owner or keeper engaged in lawful hunting, in an organized animal exhibition, field trial, competition, lawful sport or training for these activities shall not be deemed to be an animal at large. It is unlawful for owners or keepers of a diseased cat to allow the animal to run at large.

B. RESTRAINT OF DANGEROUS ANIMALS. It is a violation of this ordinance for the owner or keeper of an animal declared by the department head to be dangerous or a nuisance, either willfully or negligently, to allow the animal to run at large or to fail to secure, restrain or confine the animal as ordered by the department head or animal control officer pursuant to this ordinance. Any

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such orders shall be written, served on the owner, and maintained in the public records of the department.

C. CONFINEMENT OF DOGS AND CATS IN HEAT. It is unlawful for any owner or keeper to permit a female dog or cat in heat (estrus) to be upon the streets or in any public place. The owner or keeper of a female dog or cat in heat shall confine the animal so as to make it inaccessible to any male dog or cat except for controlled and intentional breeding purposes within such confinement. Confinement solely by 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.

D. CURBING DOGS. It is unlawful for a dog owner or keeper to permit the dog, either willfully or negligently, to defecate upon:

- (1) Any public park or beach or school ground other than in areas designated for that purpose; or
- (2) Any private property without the permission of the property owner or legal occupant. When this section is violated, the owner or keeper shall immediately remove any feces deposited by the dog. Failure to do so immediately shall constitute a violation of this section.

Section 8. Excessive Noise From Domesticated Animals.

A. PROHIBITION. Pursuant to Section 828.27(7), Florida Statutes, it is unlawful and a violation of this ordinance for any owner or keeper of a domesticated animal to willfully or negligently allow the animal to make

excessive noise, such as a dog's constant barking, so as to cause a public nuisance, regardless whether such animal is on private property. Violations of this section shall result in the applicable penalty, as outlined in Section 15 (H), only upon the animal control officers observance thereof or three (3) written citizen complaints.

B. EXEMPTIONS. This section shall not apply to animals on land zoned for agricultural purposes.

Section 9. Dangerous Animals/Dogs.

A. INVESTIGATION. The animal control department shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and obtain a sworn affidavit from any person, including any other 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 animal control department, 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 animal control department. 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 destroyed, the dog shall not be relocated or ownership transferred.

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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.

B. INITIAL CLASSIFICATION; NOTICE; HEARING. After the investigation, the animal control department 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 animal control department shall provide written notification of the sufficient cause finding, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of Chapter 48, Florida Statutes, relating 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.

C. FINAL CLASSIFICATION; NOTICE; HEARING. Once a dog is classified as a dangerous dog, the animal control department 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

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written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this paragraph.

D. CERTIFICATE OF REGISTRATION. Within 14 days after a dog has been classified as dangerous by the animal control department 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 department, and the certificate shall be renewed annually. The animal control department is authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the animal control department sufficient evidence of:

- (1) A current certificate of rabies vaccination for the dog;
- (2) 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; and
- (3) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

E. CONFINEMENT OF DANGEROUS DOG. 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 a 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.

The owner shall immediately notify the animal control department when a dog that has been classified as dangerous:

- (1) Is loose or unconfined;
- (2) Has bitten a human being or attacked another animal;
- (3) Is sold, given away, or dies; or
- (4) 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 animal control department. The new owner must comply with all of the requirements of this ordinance, even if the animal is moved from one local jurisdiction to another within the state. The animal control officer must be notified by the owner of a dog classified as dangerous that the dog is in his or her jurisdiction.

F. EXEMPTIONS. Hunting dogs are exempt from the provisions of this act 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 act when engaged in any legal procedures. However, such dogs at all other times in all other respects shall be subject to the provisions of this ordinance. Dogs that have been classified as dangerous shall not be used for hunting purposes.

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

Section 10. Luring, Enticing, Molesting or Teasing Animals.

It is a violation of this ordinance for any person to entice or lure an animal out of an enclosure or off the property of its owner or keeper, or to seize, molest, or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper.

Section 11. Seizure, Destruction and Disposal of Impounded Animals; Compensation to Owners.

A. Upon complaint, the animal control officer shall investigate whether an animal is dangerous or a nuisance. If the department head determines that the animal is dangerous or a nuisance, he/she may, in his/her sole discretion:

- (1) Notify the owner or keeper in writing, stating all the facts known to him and ordering the owner or keeper to confine the animal to a substantial enclosure or to chain it securely to the owner's property or otherwise to control it in a reasonable manner specified by the department head. The owner or keeper shall immediately comply with the department head's written order, and his or her failure to so

comply shall constitute a violation of this article subjecting the violator to the penalties herein and subjecting the animal to seizure as described in Section 5; or

- (2) Apply to the Circuit Court for an order authorizing him or his designee to enter into or upon the property wherein the animal is maintained and to seize the animal. Such application shall be governed by law of the State of Florida concerning injunctions, and the procedure observed shall conform substantially with the Florida Rules of Civil Procedure, as amended from time to time, including but not limited to Rule 1.610. Accordingly, applications may be made with or without notice to the owner or keeper for an interlocutory order authorizing entry and seizure pending final adjudication on the merits of the application for entry and seizure, in accordance with the foregoing rule. Upon the entry of a final judgment authorizing entry and seizure hereunder; the department head or his designee may enter upon the premises upon which the animal is located and seize it, and if subsection (B) of this section applies, destroy it in a humane manner.

B. The department head may dispose of any animal otherwise lawfully seized and impounded pursuant to this article where:

- (1) No owner exists;
- (2) No owner is identified after reasonable attempts by the department head to do so for a reasonable period of time;

(3) An owner exists but cannot be contacted after reasonable attempts to do so by the department head for a reasonable period of time; or

(4) An owner has been contacted but by his/her actions, failure to act, or statements, has indicated an intent to abandon the animal.

"Reasonable time" for the purpose hereof means no less than 10 days, except in the event of subparagraph (3), in which case "reasonable time" shall mean no less than 30 days.

C. The department head shall make every reasonable effort to identify and notify an owner or keeper of the impoundment of his animal. Pursuant to this article, such efforts shall be made for a reasonable period of time as determined by the Board of County Commissioners. However, where the department head complies fully and makes every effort based upon the circumstances to identify and notify such owner or keeper and where such efforts fail, resulting in the sale or destruction or other disposal of the animal, the department head shall be deemed to have complied fully with due process of law, and no owner or keeper shall be entitled to any compensation for loss of the animal.

D. Where this ordinance authorizes the disposal of any animal lawfully seized and impounded, such disposal, unless otherwise stated in other sections of this ordinance, shall be expressly limited to the following methods:

- (1) Adoption;
- (2) Redemption by owner;
- (3) Humane euthanization;

(4) Sale.

E. Under no circumstances may any animal lawfully in the custody under this ordinance be sold, loaned, or donated for research, experimental or educational purposes.

Section 12. Seizure of Animals by Property Owners or Tenants; Impoundment and Disposal; Standard of Care to be Exercised by Seizing Party.

The Board of County Commissioners finds and declares that problems of animal overpopulation in Baker County require not only the resources of the County's animal control department but also the aid and assistance of private deputies. Therefore:

- A. It is lawful for a property owner or tenant to seize in a humane manner any dog, cat or other animal running at large on his property in violation of section 7 of this article. Where such seizure is made, the property owner or tenant shall immediately deliver the animal to the animal control department. The property owner or tenant shall treat the animal humanely and shall exercise utmost care to ensure the animal's safety and well-being.
- B. The animal control department may impound any animal delivered by its owner or by a property owner or tenant pursuant to the above paragraph and may release or dispose of the animal pursuant to this article.

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C. Any person who seizes the animal pursuant to this section shall exercise utmost care to treat an animal humanely and to avoid any injury, sickness, hunger or any other ailment or affliction whatsoever in both the seizure of the animal and delivery of the animal to the animal control department. Any person unable to comply with the foregoing for any reason shall not seize and deliver any animal and any person who injures or maims any animal or who subjects an animal to hunger, sickness or any other ailment or affliction, whether intentionally or negligently in the exercise of the person's authority under this section, shall be in violation of this article and subject to penalties herein.

Section 13. Quarantine; Impoundment, Treatment and Disposal of Animals.

A. When an animal has bitten a person or another animal or is believed to have bitten a person or another animal or is suspected by the department head to have rabies, it shall be quarantined by the owner under the supervision of the animal control department, or at the discretion of the department head, the animal may be held in quarantine in a county facility. The quarantine shall be for a reasonable period of time as determined by the department head, but in no case less than ten (10) days.

B. The department head may impound any animal believed to be carrying an infectious or contagious disease, or any injured animal and may retain the services of a licensed veterinarian to treat it. The animal control department may accept a sick or injured animal upon delivery by a licensed veterinarian or

other person. When a sick or injured animal is owned and the owner is identified, such owner shall be liable for payment of veterinary expenses or reimbursement of the county's expense in treating the animal. At the discretion of the department head, a sick or injured animal may be destroyed or otherwise disposed of and its remains disposed of without compensation to the owner or keeper, provided that the department head shall make a reasonable effort for at least ten (10) days to notify the owner or keeper that the animal is impounded.

A dog or cat which is not inoculated against rabies shall not be released until provisions have been made to inoculate the animal properly.

When an impounded animal under this section is not claimed within a reasonable period of time, but no less than ten days, the department head may transfer custody or ownership of the animal to a humane agency or a new owner, or may destroy the animal and dispose of its remains. In either event, the owner or keeper shall not be entitled to compensation.

C. When an animal dies, the owner or keeper of the animal shall dispose of the remains immediately. When the department head or his agent discovers a dead animal, he shall notify the owner or keeper, if known, and shall order the owner or keeper to dispose of the remains immediately. If the owner or keeper is unknown, the department head shall notify the owner of the property upon which the remains are located and shall order him to dispose of the remains immediately. If the party notified fails to comply within twenty-four (24) hours, the department head shall cause the remains to be disposed of and shall bill the animal owner or keeper or property owner as appropriate for the cost of

disposal. The department head shall dispose of the remains of an animal which has died on public property, but only where an owner or keeper cannot be notified. Nothing in this section shall be deemed to limit or contravene the provisions of Section 823.041, Florida Statutes.

Section 14. Surrender of Animal to Department Head; Interference with Department Head in Performance of Duty.

It is unlawful for any person to refuse to surrender an animal upon lawful demand by the department head or his authorized assistant. It is unlawful for any person to attempt to take any animal from the custody of the department head or his assistant, to attempt to take any animal from a county pound without permission of the department head, or otherwise to interfere with the department head, or otherwise to interfere with the department head or his assistance in the performance of their duties under this article.

Section 15. Enforcement and Penalties.

A. Unless otherwise stated herein, a violation of this ordinance is a civil infraction punishable by a fine not to exceed five hundred dollars (\$500.00).

B. Upon observing a violation, or upon probable cause that a person has committed an act in violation of this ordinance, the animal control officer or any law enforcement officer may either:

- (1) Issue a warning citation to the owner or keeper of the animal, provided the citation states the date and time of issuance, the name and address of the person accused, the nature of the offense, a

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description of the animal involved and a demand that the offense be abated within seventy-two (72) hours.

- (2) Issue a citation as defined herein and as approved by the department head; or
- (3) Impound the animal, as provided for herein, and issue a citation as provided for in subsection (2) above.

C. If a citation is issued the violator shall have the option of paying a civil penalty, less than the maximum civil penalty, if he or she does not contest the citation. Payment shall be made by cash, cashier's check or money order within thirty (30) days to the animal control department. In addition to the civil penalty, violators must pay a \$5.00 surcharge. Proceeds from such surcharges shall be used to pay the costs of training for animal control officers.

D. Any person receiving a citation which results in a fine may contest the citation in writing to the animal control department within thirty (30) days and thereafter appear in County Court as further directed by written notification by the Department. By electing to contest the citation the violator waives his/her right to pay the uncontested fine and upon conviction shall pay a fine assessed by the Court up to the maximum of \$500.00.

E. Mandatory Court appearances are required for:

- (1) aggravated violations resulting in the unprovoked biting, attacking, or wounding of a domestic animal;
- (2) violations resulting in the destruction of loss or personal property;
- (3) violations resulting in the issuance of a third or subsequent citation; or

(4) any willful refusal to sign and accept a citation.

Persons required to appear in Court do not have the option of paying the fine instead of appearing in Court and upon conviction shall pay a fine of up to a maximum of \$500.00.

F. If a person fails to pay the civil penalty, fails to appear in Court to contest the citation, or fails to appear in Court as required by Subsection (E), the Court may issue an order to show cause upon the request of the Department. 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.

G. Any person who willfully refuses to sign and accept a citation issued by an officer shall, in addition to the civil penalty, be subject to criminal prosecution pursuant to Section 828.27(5), Florida Statutes, punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment, for each violation of this ordinance.

H. Any person who violates Section 8 of this Ordinance, which prohibits excessive noise from any domesticated animal shall, in addition to the civil penalty, be subject to criminal prosecution pursuant to Section 828.27(7), Florida Statutes, punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment in the county jail for a period not to exceed 60 days, or by both such fine and imprisonment, for each violation of this ordinance.

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Section 16. Construction of Provisions.

The provisions of this ordinance shall be liberally construed to effect the purposes of this ordinance.

Section 17. Areas of Enforcement.

Pursuant to Article VIII, Section 1 of the Constitution of the State of Florida, the Board of County Commissioners may enforce this ordinance throughout the unincorporated areas of Baker County and within the incorporated areas of Baker County to the extent that this ordinance does not conflict with any municipal ordinance.

Section 18. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held or declared to be unconstitutional, invalid, or void, such holding of invalidity shall not affect the remaining portions of this ordinance, and the unconstitutional, invalid or void provisions shall be deemed to have been severed herefrom, and the remainder of this ordinance, after the exclusion of such part or parts, shall be deemed to be valid, as if such part or parts, had not been included herein. If this ordinance or any provisions hereof shall be held inapplicable to any person, group of persons, property, or kind of property, circumstances, or set of circumstances, such holdings shall not affect the application hereof to any other person, property, or circumstances.

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Section 19. Effective Date.

This ordinance shall become effective upon receipt of acknowledgment of filing with the Department of State.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners in regular session, this 15 day of April, 2002.

**BOARD OF COUNTY COMMISSIONERS
BAKER COUNTY, FLORIDA**

BY: _____


JULIE COMBS
Chairperson to the Board

ATTEST:



AL FRASER
Clerk to the Board

As Chairperson of the Board of County Commissioners, Baker County, Florida, I do hereby certify that the above and foregoing Ordinance is a true and correct copy of the Ordinance ordained and enacted by the Board of County Commissioners of Baker County, Florida, during a regular meeting at the Baker County Administration Building, Macclenny, Florida, on the 15 day of April, 2002.



JULIE COMBS
Chairperson to the Board

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