

ORDINANCE NUMBER 2011-\_\_\_

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING VOLUME 1, CHAPTER 10, ARTICLE I, SECTIONS 10-3, 10-5, 10-7, 10-11, 10-12, 10-16, 10-23 AND 10-24 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES RELATING TO ANIMAL CONTROL; AMENDING SECTION 10-3 DEFINITIONS; AMENDING SECTION 10-5 TO EXPAND OFFICER AUTHORITY; AMENDING SECTION 10-7 TO REVISE GROUNDS FOR ISSUANCE OF CITATIONS; AMENDING SECTION 10-11 TO MODIFY PROHIBITED ANIMAL NUISANCES; AMENDING SECTION 10-12 TO CLARIFY REQUIREMENTS OF DIRECT CONTROL; AMENDING SECTION 10-16 TO QUALIFY TETHER RESTRICTIONS; AMENDING SECTION 10-23 TO ALTER PENALTIES RELATED TO DANGEROUS OR VICIOUS ANIMALS; AMENDING SECTION 10-24 TO REVISE REQUIREMENTS FOR FORMAL COMPLAINTS; PROVIDING FOR JURISDICTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Chapter 125, Florida Statutes, the County is authorized to establish regulations in the interest of the public health, safety and welfare to regulate land use planning and development in the County; and

**WHEREAS**, the Board of County Commissioners finds that the County's ordinances relating to animal control require amendment to better ensure the health, safety and welfare of the public by providing protection for, regulation and control of animals in the County ; and

**WHEREAS**, the Board of County Commissioners further finds that the proposed amendments modifying the provisions pertaining to animal control serve an important public purpose.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:**

**Section 1.** That Volume 1, Chapter 10, Article I, Sections 10-3, 10-5, 10-7, 10-11, 10-12, 10-16, 10-23 and 10-24 of the Escambia County Code of Ordinances are hereby amended to read as follows:

**Sec. 10-3. Definitions.**

The following words, terms and phrases when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandon* means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

*Animal* means every living dumb creature.

*Animal control authority* means 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. In those areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority under this chapter.

*Animal control officer* means any person duly employed or appointed who is authorized to investigate, on public or private property, and to issue citations as provided in this chapter. An animal control officer is not authorized to bear arms or make arrests.

*Animal enclosure* means any pet store, pet shop, animal shelter, kennel, animal rescue organization facility, sty, barnyard, impoundment area or other area where animals are housed and kept, whether for retail, breeding purposes or as household pets.

*Animal Rescue Organization* means a humane society or other nonprofit organization that is: dedicated to the protection of animals; duly registered with the Florida Department of State and the Florida Department of Agriculture and Consumer Services; and properly organized as a charitable organization under § 501(c)(3) of the Internal Revenue Code.

*Animal shelter* means the offices of the animal control officer where an impoundment area for animals is provided.

*Barnyard animals* means all animals of the equine, bovine or swine class and includes goats, sheep, mules, horses, hogs or cattle and domesticated poultry.

*County commissioners* means the board of county commissioners of the county.

*Cruelty* means any omission, or act of neglect, torture or torment that causes unjustifiable pain or suffering of an animal.

~~*Dangerous or vicious animal* means any animal which shall bite or in any manner attack or attempt to attack or kill any person or domestic animal, shall be deemed a dangerous and vicious animal, except that no animal shall be deemed dangerous or vicious if any person or domestic animal is unlawfully upon the owner's or keeper's premises. Any dog that has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting shall be deemed as a dangerous or vicious animal. that according to the records of the appropriate authority:~~

~~(a) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;~~

~~(b) Has more than once severely injured or killed a domestic animal while off the owner's property;~~

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

~~(dc) 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.~~

*Direct control* means immediate, continuous physical control of an animal at all times such as by means of a fence, leash, cord, or chain of such strength to restrain the same. In the case of specifically trained or hunting animals which immediately respond

to such commands, direct control shall also include aural and/or oral control, if the controlling person is at all times clearly and fully within unobstructed sight and hearing of the animal.

Harbor(ing) means to provide care, shelter, protection, refuge, and/or nourishment to an animal.

*Hobby breeder* means any person who owns or breeds purebred dogs or pedigreed cats primarily for personal recreational use. Personal recreational use may include participation in recognized conformation shows, hunting, field or obedience trials, racing, specialized hunting, working or water trials, and may include improving the physical soundness, temperament, and conformation of a given breed to standard or for the purpose of guarding or protecting the owner's property.

*Impounding officer* means the county administrator or his designee.

*Livestock* means all domestic animals kept for use on a farm or raised for sale and profit.

*Livestock officer* means the sheriff or his designee.

*Owner* means 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.

*Pet shop* means any place or premises at which the primary purpose is the keeping of pet animals, exclusive of those animals regulated and controlled by the state fresh water fish and game commission, for retail or wholesale purchase.

*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 together with visible signage warning persons of the presence of a "bad dog." 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.

*Public road* means any streets, sidewalk, alley, highway, or other way open to travel by the public including rights-of-way, bridges and tunnels.

*Residential area* means any area in the county where two or more dwellings or houses are within 50 feet or less of each other.

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

*Shelter* means provision of and unlimited access to a three-dimensional structure having a roof, walls and a floor, which is dry, sanitary, clean and weatherproof and made of durable material. At a minimum the structure must be:

- (1) Sufficient in size to allow the animal to stand up, turn around, lie down and stretch comfortably;
- (2) Designed to protect the animal from the adverse effects of the elements and provide access to shade from direct sunlight and regress from exposure to inclement weather conditions;
- (3) Free of standing water, accumulated waste and debris;
- (4) Provide adequate ventilation; and

(5) Provide a solid surface flooring area, resting platform, pad, mat, or similar provision of adequate size for the animal to lie upon in a comfortable manner.

*Stable* means those premises at which horses or equines are kept commercially for boarding, riding, breeding, training, or resale purposes.

*Sterilization* means dogs and cats 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 the neutered or spayed condition has been certified by a veterinarian licensed in any state.

*Tether* means to restrain an animal by tying the animal to any stationary object or structure, including, but not limited to, a house, tree, fence, post, garage or shed, by any means, including, but not limited to, a chain, rope, cord, leash or pulley/running line, but shall NOT include the use of a leash when walking an animal.

*Unaltered animal* means a dog or cat which has not been neutered, spayed or is otherwise not sterilized.

*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.

*Wild animal* means any living member of the kingdom Animalia, including those born or raised in captivity, except the following:

- (1) The species *Homo sapiens* (human beings).
- (2) The species *Canis familiaris* (domestic dogs, including hybrids with wolves, coyotes, or jackals).
- (3) The species *Felis catus* (domestic cats, excluding hybrids with ocelots or margays).
- (4) The species *Equus caballus* (domestic horses).
- (5) The species *Equus asinus* (asses/donkeys).
- (6) The species *Bos taurus* (cattle).
- (7) The subspecies *Ovis ammon aries* (sheep).
- (8) The species *Capra hircus* (goats).
- (9) The subspecies *Sus scrofa domestica* (swine).
- (10) Domesticated races of the species *Gallus gallus* or *Meleagris gallopavo* (poultry).
- (11) Domesticated races of the species *Mesocricetus auratus* (golden hamsters).
- (12) Domesticated races of the subspecies *Cavia aperea procellus* (guinea pigs).
- (13) Domesticated races of rats or mice (white or albino, trained, laboratory-reared).
- (14) Domesticated races of the species *Oryctolagus cuniculus* (rabbits).
- (15) All captive-bred members of the species of the families *Psittacidae* (parrots, parakeets), *Anatidae* (ducks), *Fringillidae* (finches), and *Columbidae* (doves and pigeons).
- (16) All captive-bred members of the species *Serinius canaria* of the class *Aves* (canaries).

- (17) Domesticated races of the species *Carassius auratus* (goldfish).
- (18) Captive-bred members of the superorder Teleostei of the class Osteichthyes (common aquarium fish).

### **Section 10-5. Impounding Officer**

(a) The impounding officer and county animal control officers shall have full and complete authority in the enforcement of this chapter and may pick up, catch, or procure any animal under any circumstance which is a violation of this chapter and cause the animal to be impounded in the animal shelter. An animal shall be subject to pick up and impounding, if the animal is cruelly treated, unlicensed, roaming at large, or stray, or any animal infected with rabies or believed to be so infected; infected with any other contagious or infectious disease, or believed to be so infected, or has been classified as a dangerous or vicious animal.

(b) Animal control officers 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. This training will be in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association. This training may be done locally by experienced personnel.

(c) The animal control officer shall have authority and be required to impound all unlicensed animals, except for animals ~~confined or fenced in on the owner's premises or~~ under direct control while participating in an organized match, show, trial, or undergoing obedience training. The animal control officer shall also be required to pick up and make humane disposition of any diseased or injured animal in the county. If an owner refuses entrance to his premises to an animal control officer attempting to enforce this chapter, such officer shall contact the sheriff's office and proceed on the owner's premises in the company of the sheriff or his deputy with such legal authority as is necessary to lawfully enter the owner's premises for the purpose of enforcing this chapter. The animal control officers are hereby authorized to issue citations and notices to appear for the violation of this chapter when based upon personal investigation and the officer has reasonable and probable grounds to believe that a violation has occurred.

### **Sec. 10-7. Citations.**

(a) *Format.* A citation and notice to appear shall be in the form prescribed by the board of county commissioners and when issued, shall constitute notice that an officer has probable cause to believe an infraction of this chapter has been committed and that the cause will be heard in the county court in and for the county. Exclusive jurisdiction and authority shall be in the county court to dispose of or make adjudication based upon a citation once it has been issued. A citation shall include 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 by subsection (c) of this section.

- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, then he shall be deemed to have waived his right to contest the citation and that in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court as mandated by subsection (c) of this section, he does not have the option of paying a fine in lieu of appearing in court.
- (b) *Issuance.* For violation of any of the provisions of ~~sections 10-8, 10-9 and 10-11~~ this Chapter, the animal control officer shall have the discretion to either issue a warning with no civil penalty, issue a citation for a fine in the amount specified in the animal control fee resolution as approved by the board of county commissioners, or a notice to appear in court as required by this section. Any person cited for violation of this chapter under this section shall be deemed to be charged with a civil infraction and cited to appear in court. Any person cited for an infraction under this chapter 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, or if mandated to appear in court as required by this subsection (c) of this section.
- (c) *Mandatory court appearance.* Court appearance shall be mandatory for violations of this chapter involving the unprovoked biting, attacking or wounding of a domestic animal or human being; the destruction or loss of personal property; second or subsequent violations of animal cruelty laws; and/or violations resulting in the issuance of a third or subsequent citation to a person or persons within the same household. In the event mandatory court appearance is required, the citation must clearly inform the person of such mandatory appearance, and records shall be maintained by animal control regarding such cases. Persons required to appear in court do not have the option of paying the fine instead of appearing in court.
- (d) *Payment of civil penalty.* Any person cited with a violation of this section may pay the civil penalty within ten days of the date of receiving the citation. If the person cited follows the above procedure, he shall be deemed to have admitted the civil infraction and to have waived his right to a trial on the issue of commission of the violation.
- (1) If a person fails to pay the civil penalty within ten days of receipt of the citation, the clerk of the court shall issue a notice to appear. An additional amount shall be assessed as a late fee for each penalty paid after the initial ten-day period in accordance with the fee resolution as established by the board of county commissioners.
- (2) 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 (c) of this section, the court may issue an order to show cause upon the request of the governing body of the county or municipality. This order shall require such persons to appear before the court to explain why actions on the citation have not been taken. If any person who is issued such order fails to appear in response to the court's directive, that person shall be held in contempt of court.
- (e) *Liability for penalty.* In the event an animal is impounded for violation of this chapter and the owner of the animal abandons the animal to the animal control department, permanent custody of the animal shall be relinquished to the animal control

authority for appropriate disposition and the owner shall remain liable for the civil penalties and any other actions imposed for violation of this chapter.

(f) *Refusal to sign or accept citation.* Any person refusing to sign and accept a citation shall be in violation of this chapter, and shall be punished as provided for in section 10-23.

### **Sec. 10-11. Animal Control.**

(a) *Generally.* Animals are prohibited from roaming freely on any public or private property without the consent of the owner or lessee among the public within the county unless such animal is specifically excepted as further set out in this section.

(b) *Public places.* Animals are prohibited from public places in the county such as airports, hotels, restaurants, theaters, public conveyances, grocery stores, or other establishments serving food, beverages or staple foods, and at public gatherings such as outdoor festivals, fairs, etc. Animals so found, whether roaming or on direct control by the owner, may be impounded.

(1) It shall be unlawful for the owner of an animal to allow his animal in public places of the county such as school grounds, school bus stops, public parks, beaches, and playgrounds.

(2) It shall be unlawful for the owner of an animal to allow his animal, whether roaming at large or on a leash or otherwise under his control, on public bathing beaches or recreational areas on that portion of Santa Rosa Island owned by and under the jurisdiction of the county or the Santa Rosa Island Authority, or on that portion of any beach, public or private, lying seaward of the coastal construction setback line for land southward of the right-of-way of State Road 292 or lying seaward of the line of vegetation for land northward of the right-of-way for State Road 292 on the portion of the county known as Perdido Key which is bordered to the west by the Alabama state line, to the south by the waters of the Gulf of Mexico, to the east by the property of the U.S. Government, and to the north by the waters of the Intracoastal Waterway.

(3) Provided, however, no animal owner shall be prohibited from permitting his animal within 50 feet of a building which the animal owner owns or leases.

(c) *Exceptions.* These restrictions relating to public places, schools, parks, beaches and recreational areas shall not apply to:

(1) Animals utilized by law enforcement agencies, while engaged in law enforcement activity.

(2) Animals trained to assist the blind or hearing impaired, provided such animal is in the company of such person.

(3) The showing and training of dogs and the use of animals in educational presentations in appropriate locations of auditoriums, schools, parks, parking lots, armories, theaters, and similar public or privately owned areas.

(4) The transportation of animals by airlines at the airport in the county.

(5) Special events as authorized by a vote of the majority of the board of county commissioners with any conditions set forth by the board as reasonable under the circumstances.

(d) *Female animals in season.* The owner of any female animal in heat shall keep such animal confined in a building or secure enclosure, veterinary hospital, or boarding kennel in such a manner that such female animal cannot come in contact with another

animal, except for intentional breeding purposes. An owner who does not keep the female animal confined while in season shall be guilty of a civil infraction and punished as provided in section 10-23. This section shall not apply to female animals entered in organized shows.

(e) *Animal nuisances prohibited.* Any animal or animals ~~that habitually or continuously bark, howl, or otherwise disturb the peace and quiet of the inhabitants of the county or are permitted to cause damage to personal property or defecate upon the property of others or are kept or maintained in such a manner as to disturb by noxious or offensive odors or otherwise endanger the health and welfare of the inhabitants of the county~~ which shall do any of the following are declared to be an animal nuisance.

- (1) Molests passersby or passing vehicles.
- (2) Attacks other animals.
- (3) Trespasses on school grounds.
- (4) Is repeatedly at large.
- (5) Damages private or public property.
- (6) Defecates or urinates upon the property of others.
- (7) Repetitively barks, whines, howls or otherwise produces any noise in an excessive, continuous or untimely fashion for a period of five (5) minutes or more.
- (8) Has a communicable or contagious disease that is untreated or does not respond to treatment.
- (9) Causes or emits an offensive odor which can be detected off the property of its owner.
- (10) Is kept in a manner which causes a breeding place for flies, lice, fleas or other vermin or disease.
- (11) Unreasonably interferes with a person's use and enjoyment of his property.

Any person who keeps, harbors, or maintains an animal nuisance as defined above, shall be guilty of a civil infraction and punishable as provided in section 10-23.

#### **Sec. 10-12. Direct control.**

Except as otherwise provided in this section, It shall be a violation of this chapter for any animal to roam freely on any public or private property without the consent of the owner or lessee be off the premises of its owner or person responsible for the animal, without it being under the direct control of its owner, person responsible therefor, or other person. All animals, when not on the premises of the dog's owner or on the premises of another who consents thereto, shall be and remain under the direct control of a person competent to control such dog at all times or, otherwise, shall be considered unlicensed animals and private nuisances and may be seized, restrained, impounded, and disposed of as provided by this chapter for any unlicensed animal.

(b) Direct control shall apply only to the areas of the county which are designated by resolution of the board of county commissioners. The board of county commissioners is authorized to adopt by resolution areas designated as "direct control" pursuant to the procedures provided in this section. Any "direct control" resolutions existing as of the



date of this chapter shall remain in full force and effect and shall not require reaffirmation by the board of county commissioners.

(c) Resolutions adding certain areas to or deleting certain areas from the "direct control" area may be adopted on the board of county commissioners' own motion, or may be adopted after receipt of a petition from residents of an area requesting that such area be added to or deleted from the "direct control" area. Any such petition shall be verified and shall be signed by at least 65 percent of the residents of the area which is to be added to or deleted from the "direct control" areas. Locations of residences or persons signing such petitions shall be distributed fairly about the area which is to be added to or deleted from the "direct control" area.

(1) Upon receipt of petitions a public meeting shall be advertised and held at petitioner's expense. Further, such petitioner shall mail a copy of the notice of public meeting to each owner of property within the area which is to be added to or deleted from the "direct control" area and will certify that such notices were mailed at least ten days prior to the date of the public meeting.

(2) Before adoption of any such additional resolution adding areas to or deleting areas from the "direct control" area, the board of county commissioners shall hold a duly advertised public hearing. Such resolutions, after adoption by the board of county commissioners, shall become effective upon being filed with the clerk of the board of county commissioners.

(d) Notwithstanding subsections (b) and (c) of this section, and notwithstanding any resolution adopted by the board of county commissioners designating or deleting certain areas as direct control areas, all dangerous dogs classified/registered in accordance with the provisions of section 10-14 shall be under the direct control of the owner at all times. Such dogs shall not be permitted outside the proper and secure enclosure area on the owner's property unless the dog is muzzled and restrained by a substantial chain or leash and under the control of a competent and responsible person.

#### **Sec. 10-16. Cruelty to animals.**

(a) It shall be unlawful for any owner or person to be cruel to an animal by cruelly beating, torturing, mutilating, ~~clearly~~ failing to provide food, drink or shelter, ventilation, exercise, necessary veterinary care or to abandon animals.

(b) It shall be unlawful for any owner or person in possession of an animal or who has charge or custody of an animal to suffer injury or malnutrition or to abandon any animal in a street, road, or public place without providing for the care, sustenance, protection and shelter of such animal, or to impound or confine any animal in a place or enclosure without supplying such animal with a sufficient quantity of good and wholesome food and water and air, during such period of confinement, or to abandon any animal that is maimed, sick, infirmed, or diseased. In addition, the provisions of F.S. § 828.13 are hereby adopted and such prohibitions as contained therein are incorporated by reference.

(c) It shall be unlawful for any person who shall have knowledge that an animal was struck by a vehicle under the person's control, to fail to render first aid to such animal by taking it to a veterinarian or by notifying either the owner, the animal control division, or the police or the sheriff.

(d) It shall be unlawful for any person to transport any dog or other animal in a motor vehicle on any public street, when such animal is not fully enclosed within the vehicle or confined in a container, cage or like enclosure, or temporarily secured in a manner that will prevent the animal from falling or jumping from the vehicle.

(e) It shall be unlawful for any owner or person in possession of an animal and who confines the animal outdoors on private property to tie, chain or otherwise tether an animal that is under the age of six months.

(f) It shall be unlawful for any owner or person in possession of an animal and who confines the animal outdoors on private property to tie, chain or otherwise tether an animal that is over the age of six months except when the following conditions are met:

(1) The animal is tethered in a location on the property within the visual range of the primary structure ~~responsible party or the responsible party is located outdoors with the animal;~~

(2) The tether shall:

a. Be a minimum of ~~six~~ ten feet in length or at least five times the length of the animal ~~when measured from the tip of the animal's nose to the base of the tail, whichever is longer;~~

b. Terminate at both ends with a swivel; and

c. Not weigh more than 1/16 of the animal's weight;

(3) An overhead pulley/running line shall:

a. Be at least 15 feet in length; and

b. No less than ~~seven~~ five (5) feet above the ground;

(4) The tether must be fastened to a properly fitting body harness or buckle-type collar made of nylon or leather;

(5) The tether shall be free from entanglement or other obstructions at all time;

(6) The animal shall have access to potable water, ~~feed~~, shelter and dry ground at all times;

(7) An animal shall not be tethered while sick, injured or in distress;

(8) An animal shall not be tethered outside during a period of extreme weather, including but not limited to, ~~extreme heat, extreme cold, thunderstorms, tornadoes, tropical storms, or hurricanes;~~ and

(9) Multiple animals must be tethered separately.

(g) Any person cruel to an animal as provided in this section shall be in violation of this chapter and punished as provided in section 10-23.

### **Sec. 10-23. Penalties.**

(a) A violation of this chapter is a civil infraction, except as provided for in subsection (f) and subsections (g)(1), (2) and (3) of this section. Each violation shall constitute a separate offense.

(b) The maximum civil penalty for a civil infraction shall not exceed \$500.00.

(c) By resolution, the board of county commissioners, shall establish the amount of any civil penalty for a civil infraction. Such resolution may be amended from time to time and is incorporated by reference and made a part hereof. In addition to each civil penalty, there is hereby imposed a surcharge of \$5.00 for violations involving animal control or animal cruelty. The proceeds shall be placed in a separate fund and used to pay the

costs of the 40-hour minimum standards training course required for county animal control officers as provided in F.S. § 828.27(4)(b).

(d) Any person paying a penalty pursuant to a civil infraction violation of this chapter shall be deemed to have admitted the violation. In no event shall a penalty amount, when a person admits without contesting the violation, exceed the limits specified in the animal control fee resolution as approved by the board of county commissioners.

(e) An individual who contests the violation and after trial is found in violation of the provisions of this chapter, except as provided below, shall be guilty of a civil infraction and punished by a fine of not less than \$50.00 and not more than \$500.00.

(f) Any person who willfully refuses to accept and sign a citation or notice to appear shall be in violation of this chapter and shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083 (F.S. § 828.27(4)).

(g) Any person who owns a dog which aggressively attacks or injures or attempts to attack or injure a person or another animal shall be in violation of this chapter, and the citation issued to such person shall not permit payment of a civil penalty in lieu of court appearance and the owner shall be prosecuted as follows:

(1) If a dog that ~~The owner of a dog which~~ has not been previously declared dangerous under the provisions of section 10-14 ~~and which aggressively attacks and causes severe injury to or death of any person and the owner had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, or domestic animal without provocation, upon conviction,~~ the owner shall be guilty of a second degree misdemeanor punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(2) If a dog that ~~The owner of a dog which~~ has previously been declared dangerous in accordance with section 10-14 ~~and which aggressively attacks or bites a person or a domestic animal without provocation, upon conviction,~~ the owner shall be guilty of a first degree misdemeanor punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(3) If a dog that ~~The owner of a dog which~~ has been previously been declared dangerous in accordance with section 10-14, ~~which aggressively attacks or bites and causes severe injury to or the death of any person, upon conviction,~~ the owner shall be guilty of a third degree felony, punishable as provided in F.S. § 775.082, F.S. § 775.083 or F.S. § 775.084.

#### **Sec. 10-24. Complaints for violations.**

(a) An individuals may present a formal complaints to animal control officers in the form of an "affidavit of complaint," signed by one resident of the county, or in the case of noise complaints, two or more residents of the county, where each complainant resides in a separate dwelling in the vicinity of the claimed violation, and when such affidavit has been made under oath before an individual authorized by law to take acknowledgements or in the presence of two attesting witnesses. Such affidavit must set forth the nature of and the date of the act claimed to violate this chapter.

(b) Upon receipt of a proper affidavit, the animal control officer shall investigate the complaint to determine whether a violation of this chapter has been committed. In the event the act complained of constitutes a violation of this chapter, the officer shall

enforce this chapter pursuant to the provisions of section 10-23 and as otherwise provided in this chapter.

**Section 2. Operative in Unincorporated Areas.**

This Ordinance shall apply to and be enforced in all unincorporated areas of the County.

**Section 3. Severability.**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 4. Inclusion in the Code.**

It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Escambia County Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

**Section 5. Effective Date.**

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2011.

BOARD OF COUNTY COMMISSIONERS  
ESCAMBIA COUNTY, FLORIDA

BY: \_\_\_\_\_  
Kevin W. White, Chairman

ATTEST: ERNIE LEE MAGAHA  
Clerk to the Circuit Court

BY: \_\_\_\_\_  
Deputy Clerk

(SEAL)

Enacted:  
Filed with Department of State:  
Effective:

This document approved as to form and legal sufficiency.

By: [Signature]  
Title: CHAIRMAN  
Date: 8/15/11