



155 E. Pomelo Street
Lake Alfred, FL. 33850-2135

CITY OF LAKE ALFRED

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**AGENDA
CITY COMMISSION MEETING
MONDAY, DECEMBER 1, 2014
7:30 P.M.
CITY HALL**

CALL TO ORDER: MAYOR NANCY Z. DALEY

INVOCATION: JOHN DAME

PLEDGE OF ALLEGIANCE: MAYOR NANCY Z. DALEY

ROLL CALL: CITY CLERK LINDA BOURGEOIS

CITY MANAGER & CITY ATTORNEY ANNOUNCEMENTS

RECOGNITION OF CITIZENS: ITEMS NOT ON AGENDA

EMPLOYEE OF THE 4TH QUARTER – MAMIE DRANE

**CONSENT AGENDA: APPROVE CITY COMMISSION MEETING MINUTES 11/17/14 AND
CRA BOARD OF COUNTY COMMISSION WORK SESSION 10/21/2014**

AGENDA

- 1.) PUBLIC HEARING - ORDINANCE 1346-14: ANIMALS**
- 2.) CITY CENTER COMMUNITY DEVELOPMENT DISTRICT STORAGE AGREEMENT**

RECOGNITION OF CITIZENS (PLEASE LIMIT YOUR COMMENTS TO 5 MINUTES.)

COMMISSIONER QUESTIONS AND COMMENTS:

**COMMISSIONER MAULTSBY
MAYOR DALEY
COMMISSIONER DEARMIN
COMMISSIONER DUNCAN
VICE MAYOR LAKE**

ADJOURN

**LAKE ALFRED CITY COMMISSION MEETING
DECEMBER 1, 2014**

CONSENT AGENDA

1.) CITY COMMISSION MEETING NOVEMBER 17, 2014 AND CRA BOARD OF COUNTY COMMISSION WORK SESSION OCTOBER 21, 2014.

ATTACHMENTS:

- November 17, 2014 Regular Meeting
- October 21, 2014 CRA BOCC Work Session

ANALYSIS: Please review the minutes at your earliest convenience and if there are any questions, comments or concerns please contact the City Clerk, Linda Bourgeois, at (863) 291-5747.

**MINUTES
CITY COMMISSION MEETING
MONDAY, NOVEMBER 17, 2014
7:30 P.M.
CITY HALL**

Call to order – Nancy Z. Daley, Mayor

Invocation: John Dame

Pledge of Allegiance: Nancy Z. Daley, Mayor

Roll Call: Those in attendance were Mayor Nancy Z. Daley, Vice Mayor Charles Lake, Commissioner John Duncan, Commissioner Albertus Maultsby, Commissioner Jack Dearmin, City Manager Ryan Leavengood, City Attorney Frederick John Murphy, Jr., and City Clerk Linda Bourgeois.

Staff attendance: Public Works Director John Deaton, Finance Director Amber Deaton, Parks and Recreation Manager Richard Weed, Community Development Director Valerie Ferrell, and Police Chief Art Bodenheimer.

CITY MANAGER ANNOUNCEMENTS

The employee Thanksgiving Luncheon will be held on Monday, November 24, 2014 at the Highlands Community Center 11:30a.m. – 1:00p.m.

City offices will be closed on Thursday and Friday; November 27th – 28th in observance of the Thanksgiving Holidays.

The Lake Alfred Christmas Parade and Tree Lighting Ceremony will be held on Saturday, December 6, 2014. The parade will start at 6:30 p.m. beginning at Mackay Boulevard and will end at Gardner Park. Participants in the parade should be at the Mackay Gardens and Lakeside Preserve at 5:30 p.m. for check-in and placement order. For additional information please contact the Parks and Recreation department.

The employee Christmas Party will be held on Friday, December 12, 2014 at 6:00p.m. at the Lions Club. This year all volunteer board members have been invited to show our appreciation for their service to our community.

The City of Lake Alfred's annual Bluegrass Bash will be held on Saturday, January 10, 2015 at the Mackay Gardens and Lakeside Preserve. This event will start at 11:00a.m. with food, fun, and entertainment for the entire family and end at 9:00pm.

Tomorrow, November 18, 2014 the Board of County Commissioners will be entertaining the CRA plan for a public hearing and approval at 1:30 p.m.

City Manager Leavengood said the University of Florida property swap is still in progress. At this time it is in their legal department, and the asbestos survey was clear. The City is anticipating results back on the phase one environmental later this week. A survey will need to be completed with potential consideration in front of the City Commission slated for January.

He concluded by saying the joint Veterans Day event went well. All ten (10) City Commissioners were present and it was very well attended.

CITY ATTORNEY ANNOUNCEMENTS

There were no legal announcements. He wished everyone a Happy Thanksgiving.

RECOGNITION OF CITIZENS

There were none.

CONSENT AGENDA: APPROVE CITY COMMISSION MEETING MINUTES 11/3/14

Commissioner Dearmin moved to approve the City Commission Meeting minutes for the November 3, 2014 regular meeting; seconded by **Vice Mayor Lake** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

AGENDA

1.) PUBLIC HEARING ORDINANCE 1343-14: FINAL BUDGET AMENDMENT 2013/2014

Mayor Daley read the Ordinance 1343-14 into record.

City Manager Leavengood said as a part of the closeout process of the previous fiscal year of 2013/2014 the City is required to submit an amended budget that includes any changes made from the original budget. These changes can include unanticipated projects, expenses, or revenues that were not included; or changes to existing line items that did not meet exact revenue or expenditure projections. The proposed budget adjustment accounts for these changes.

Mayor Daley opened the public hearing.

There were none.

Mayor Daley closed the public hearing.

Without any comments, **Vice Mayor Lake** moved to approve Ordinance 1343-14 on second and final reading; seconded by **Commissioner Duncan and Commissioner Maultsby** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

2.) PUBLIC HEARING ORDINANCE 1344-14: SCHOOL ZONING

Mayor Daley read the Ordinance 1344-14 into record.

City Manager Leavengood said he City of Lake Alfred has received a request to assign a Public Building & Grounds (PB) zoning classification to 44.47 acres located east of CR 557 and between Evenhouse Road & Creek Road. Additionally, 11 acres at the center of the site are proposed to be zoned as Conservation (CN).

He went on to say the total 55.47 acre tract of land has a designated future land use of Medium Density Residential (MDR) but does not currently have an assigned zoning classification. For perspective: An R-2 zoning classification would be permitted under the MDR future land use and would allow 12 units per acre or 536 residential units on 44.47 acres.

The proposed zoning assignment of Public Building/Grounds (PB) is consistent with the future land use designation and surrounding area. Wetland mitigation, stormwater, transportation impacts, permitting and other site specific considerations would be addressed during the site development review process. The Lake Alfred Planning Board would have to approve any proposed site development on the property. He concluded by saying the proposed zoning assignment request received a recommendation of approval from the Planning Board. Staff has no objections to Ordinance 1344-14 on second and final reading.

Mayor Daley opened the public hearing.

Steve Lockhart of 826 First Street S. in Winter Haven shared he was in attendance to answer any questions, and thanked the City Commission and staff for all of their hard work on this process.

Kirk Connor of 352 Creek Road shared his concerns about increased bus traffic in the area when the high school opens. He said there will be a lot of noise and traffic. He went on to talk about the possibility of rerouting the watershed channel, and potential flooding. He is not in favor of the zoning change.

James Wright of 390 Creek Road said he thought this move will impact conservation. He shared that the landscaping may interfere with their drinking wells, and shared about the formation of the dip in the road on Highway 557. He claimed the area is a watershed area and needs to be protected. He went on to say he is not in favor of the zoning. He concluded by saying there are more properties in Lake Alfred which may be better suited for Discovery High School.

Mayor Daley closed the public hearing.

Vice Mayor Lake said he thought the property was a defunct orange grove with some cattle and horses. He said before anything is built on the property, the engineers will ensure proper

design for water flow and stability. He said the bus entrances would more likely be Evenhouse on Evenhouse road. He shared the property - zoned as it is - has the potential to develop over five hundred houses. He concluded by saying the City of Lake Alfred needs a high school and it is the perfect spot for it.

A discussion ensued about the difference between future land use, zoning, and having to have a specific reason for denying a request once the property has already been zoned.

Commissioner Duncan asked if it also had a future land use for multi- residential (R-2) zoning, which could be apartment buildings?

City Manager Leavengood replied yes.

A discussion occurred about the amount of developers in the early housing boom years, and the potential for decreased bus traffic due to the sharing of busses with the middle school.

Commissioner Maultsby moved to approve Ordinance 1344-14 on second and final reading; seconded by **Commissioner Duncan** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

3.) PUBLIC HEARING ORDINANCE 1345-14: CAPITAL IMPROVEMENT PLAN

Mayor Daley read the Ordinance 1345-14 into record.

City Manager Leavengood said as part of an annual update, the City must review the Capital Improvement Element and the 5-year Schedule of Capital Improvements. This process is mandated by Florida statutes and the schedule is updated and transmitted to the Department of Economic Opportunity for review by December of each year. The Schedule includes the capital improvements scheduled for construction within the community to meet the Levels of Service adopted in the 2030 Lake Alfred Comprehensive Plan. He went on to say the proposed amendment is based on the Capital Improvement Plan that was adopted as a part of the FY 14/25 Budget. It does not include those capital items within Administration, Police, Fire and any other departments that are not specified for the levels of service in the Comprehensive Plan. He concluded by saying staff's recommendation is for approval of Ordinance 1345-14.

Mayor Daley opened the public hearing.

There were none.

Mayor Daley closed the public hearing.

Commissioner Dearmin moved to approve Ordinance 1345-14 on second and final reading; seconded by **Vice Mayor Lake** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

4.) ORDINANCE 1346-14: ANIMALS

Mayor Daley read Ordinance 1346-14 into record.

City Manager Leavengood said that as a part of a comprehensive review of the City Charter, City codes, and policies, city staff has identified an opportunity to clean-up and improve Chapter 10 of the Code of Ordinances related to animals.

He continued and said the existing provisions within Chapter 10 tie back to state law and county ordinances related to the regulation of animals. However, the code has specific reference to a city issued permit for the destruction of nuisance animals and separate regulations for dogs. Florida Fish and Wildlife already have definitions and procedures in place for addressing nuisance wildlife. Additionally, the county animal control ordinance that we previously adopted by reference already provides regulations and penalties related to dogs and other animals.

He went on to say the proposed ordinance removes these provisions within our code and better aligns it with state law and county ordinances related to the regulation of animals within the City. He concluded by saying staff's recommendation is for approval of ordinance 1346-14 on first reading.

A discussion ensued about the provisions of Polk County's Ordinance and the Florida Fish and Wildlife when dealing with nuisance animals.

Mayor Daley said it makes sense to adopt what is already on the books in the County, because it would be silly to have a law here and if you took three steps to the right there would be a different law. It makes it more consistent, and we use the county for enforcement.

Vice Mayor Lake asked if the City of Lake Alfred received a bill for animal control services.

City Manager Leavengood said the Sheriff's department and animal control services are paid for through City tax payers' because we all pay a millage rate to Polk County.

Mayor Daley read the summary of the Ordinance's provisions.

Vice Mayor Lake moved to approve Ordinance 1346-14 on first reading; seconded by **Commissioner Dearmin** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
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VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

5.) RESOLUTION 17-14: REMOVE TRANSITION SCHEDULE

City Manager Leavengood said Section 6.06 of the City Charter allows for the removal, by resolution, of any transition schedule when all events have occurred. He continued and said section 6.05 of the City Charter titled "Schedule" provided for an election transition schedule in 2001 following charter amendments in the fall of 2000. The events detailed in the transition schedule have already occurred rendering the provisions of Section 6.05 obsolete. He concluded by saying the proposed resolution removes section 6.05 of the City Charter consistent with the provisions of section 6.06 of the City Charter.

Mayor Daley read Resolution 17-14 into record.

Without any discussion, **Commissioner Dearmin** moved to approve Resolution 17-14 to remove the Charter the referenced section of the transition schedule; seconded by **Commissioner Duncan** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

6.) ANNUAL BOARD REAPPOINTMENTS

City Manager Leavengood said the City maintains various boards that are both essential to and benefit the City including: Planning, Board of Adjustments, and Parks & Recreation. All Board members serve for three (3) year terms and the following board members are up for renewal:

Planning Board:

- Judy Schelfo
- Bette Biggar
- Deborah Hoffman

Board of Adjustments:

- Joyce Schmidt
- Wanda Daley

Parks and Recreation:

- David Fawcett

All members have expressed an interest in continuing to serve for an additional three year term.

Commissioner Dearmin moved to approve the reappointments to the City Boards as indicated; seconded by **Commissioner Maultsby** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

7.) PURCHASE OF MINI-EXCAVATOR

City Manager Leavengood said the City has included \$60,000 in the current year 14/15 Budget for the replacement of the Public Works Department's mini-excavator. The excavator is used for water line repairs, sidewalk repairs and other projects. The City has received the followings bids for the replacement of the mini-excavator:

Caterpillar	\$ 53,424
Polk Tractor Company	\$ 49,270
Vemeer Southeast	\$ 45,608

The existing mini-excavator is in decent condition and staff will attempt to sell it locally or on govdeals.com. Staff's recommendation is to purchase the mini-excavator from Vemeer Southeast for \$45,608.

Vice Mayor Lake asked about the different brands quoted in the bids submission.

Public Works Director replied they are all the same size machine. The excavators go by weight and these are all between 7,000 and 8,000 pounds. The bids are reflective of equality amongst the machine and attachments quoted.

A discussion ensued about Vemeer being the company, and the brand they are selling was the Yanmar.

Commissioner Dearmin said the bid came in fifteen thousand dollars less than what the City had budgeted.

Vice Mayor Lake moved to approve the purchase of the mini-excavator from Vemeer in the amount of \$45,608.00; seconded by **Commissioner Dearmin** and the motion was approved by unanimous voice call vote.

There were no public comments.

MAYOR DALEY	AYE
VICE MAYOR LAKE	AYE
COMMISSIONER DEARMIN	AYE
COMMISSIONER DUNCAN	AYE
COMMISSIONER MAULTSBY	AYE

City Manager Leavengood provided a presentation on the new sidewalks being installed on Hoffman Street around Central park. He said now there will be three sides finished, and indicated we could possibly catch the last leg during this budget year. He also said the west side of town is preparing for the installation of the safe routes to school sidewalk project as well. He concluded by unveiling the City of Lake Alfred Centennial logo.

RECOGNITION OF CITIZENS

There were none.

COMMISSIONER QUESTIONS AND COMMENTS

Vice Mayor Lake said the combined Veterans Day celebration was very nice. He shared about his legislative policy committee meeting last week, and wished everyone a Happy Thanksgiving. He announced to the audience that Saturday, November 29, 2014 is the small business day, and concluded by sharing he was going to visit the Polk Correctional Institute.

Commissioner Maulsby shared about the legislative policy committee he serves on, and said they are focusing on police and fire pension reform. He said they are favoring self-rule rather than someone in Tallahassee telling us how we should spend our money. He continued and said many larger companies want to do away with the communication service tax and local business tax. He said some of the big cities receive a lot of money from this. He concluded by saying let's hope we can get something done about the pension reform, and the communication and business tax.

Mayor Daley said the Veterans Day event was really spectacular, and the weather was really nice. There was a good turnout. She continued and shared about the Women's and Men's forum, and said the City Manager is working with the Florida Fish and Wildlife for some controlled burning on the Mackay Gardens and Lakeside Preserve property. She said maybe in a couple of months we can begin some of the property restoration. She concluded and said that will be a good and positive improvement to restore the property.

City Manager Leavengood said the City of Lake Alfred is fifth on the list, weather dependent. It should be within the first quarter of next year.

Commissioner Dearmin said he also attended the Intergovernmental Relations and Transportation policy committee meeting. He shared they worked on language for rewording the goal for transportation funding, which a lot of members want to make sure home rule stays in play. He went on to say the other hot topic was the Uber taxi type business which is coming. He concluded by thanking the board volunteers, and said he is glad we are moving in the right direction with the Family Dollar coming into the City.

Commissioner Duncan asked about the turn-around time for a receipt of the permit and the printing of the wayfinding signs.

City Manager Leavengood said we are running with those things concurrently and we are expected to get a preliminary review back from the State back before the end of the holidays. The bid submissions are due on December 2, 2014, and then we will look to present them at the first meeting in January. We are moving aggressively on this and hopefully we should have them installed in the first part of spring of 2015.

Commissioner Duncan asked if we can reach out to the Chamber and get a list of businesses wanting to be on the side street signs?

City Manager Leavengood said yes, and we will work with staff – it will be intuitive to some degree of what businesses need to go on what signs – and so we will kind of do a draft plan so the Chamber does not have to feel like they have to come up with everything. If you want to be on the sign, you will pretty much have the option to be on the sign. We will be doing outreach in the next month or so.

Commissioner Duncan shared they had a fantastic 100th year celebration for his church. He thanked Commissioner Maulsby for his attendance and said it was a very neat event. He concluded by saying he learned a lot of historical things this past weekend.

Mayor Daley thanked Carol Faulks and her associates for coming out this evening.

Without any further comments, the meeting adjourned at 8:24 p.m.

Respectfully Submitted,

Linda Bourgeois, M.M.C.
City Clerk

Polk County Board of County Commissioners
Community Redevelopment Agency Work Session
October 21, 2014

The Board of County Commissioners of Polk County, Florida, held a Work Session at the County Administration Building on Tuesday, October 21, 2014, at 10:30 a.m., with the following members present: George Lindsey, District 1; Melony Bell, District 2; Edwin Smith, District 3; Todd Dantzler, District 4; and John Hall, District 5. Also present: County Attorney Michael Craig, County Manager Jim Freeman, and Deputy Clerk Kim Hancock represented the Clerk's Office.

Chairman Dantzler called meeting to order at 10:45 a.m.

Ryan Leavengood, City Manager of Lake Alfred, showed slides and discussed the City of Lake Alfred's Community Redevelopment Agency (CRA). He discussed Tax Increment Financing (TIF). He reviewed the life of TIF district in previous years. He reviewed the CRA Plan. He discussed the purpose of the CRA Plan; which included, eliminating blight, promoting redevelopment, and providing job opportunities. He reviewed blight indicators. He discussed CRA Plan Foundations; which included, community workshops, core improvement areas, Brownsfield District, Downtown Master Plan (DMP) adopted in 2013, and Land Development Regulations Implementing (LDRI) adopted in 2012. He reviewed the financial benefits to the City and the County. He discussed the fixed tax base and tax increment. He stated the Lake Alfred CRA is one of the smaller CRA's in the County.

John Strang, Gapway Grove, stated they would be happy to be a catalyst project for the CRA.

Mr. Leavengood continued with the slideshow and discussed revenue. He stated the CRA should be seen as an opportunity for the City and the County to work together.

Upon questioning, Mr. Leavengood discussed the efforts by the City to enclose enclaves. He stated they have a part-time code enforcement person working for the entire city.

Mr. Strang stated they are looking to develop something industrial/business park.

Commissioner Smith thanked the City of Lake Alfred for all of their efforts.

Mr. Leavengood discussed the goals for the City of Lake Alfred.

Pat Steed, Executive Director of the Central Florida Regional Planning Council, discussed the accountability of the CRA's.

Nancy Daley, Mayor of Lake Alfred, stated she looks forward to working with the County and appreciated their consideration.

Polk County Board of County Commissioners
Community Redevelopment Agency Work Session
October 21, 2014

Chairman Dantzler adjourned meeting at 11:30.

Chairman Dantzler called meeting to order at 11:35 a.m.

Lisa Frasier, Frasier Consulting, showed slides and discussed Mulberry demographics based on 2012 estimates. She also reviewed Mulberry housing demographics; she stated there's a need for residential development. She gave an overview of the Community Redevelopment Agency (CRA). She discussed the benefits of redevelopment. She reviewed the CRA impact study on the return on investment of Tax Increment Financing (TIF). She discussed the complete CRA area, and 30 year TIF projection for the Mulberry CRA. She reviewed ways that the funds can be spent. She reviewed examples of implementation programs and capital improvement projects. She stated the City of Mulberry has had little population growth over the years. She reviewed projects that are currently underway in the City. She stated they are looking for the County's support.

Rick Johnson, Mulberry City Manager, stated it is important to improve the entrance into city industrial areas; as well as county industrial areas.

Ms. Frasier responded to Commissioner Lindsey's concerns. She stated they are not freezing funds, but reallocating dollars. Discussion followed.

Upon questioning, Ms. Frasier discussed ways they are trying to market the City of Mulberry. She also discussed TIF dollars. Discussion followed.

Mr. Johnson stated they are asking for help from the County Commission.

Terry Everett, Mulberry City Commission, stated the City Manager has done a great job since being in office.

Ms. Frasier responded to comments and concerns of the Board.

Mr. Everett stated Carter Road Park was not included in the CRA. He also thanked the County for their time.

County Manager Jim Freeman suggested the City Manager of Mulberry have a meeting with the County Manager to discuss the needs of the City. Discussion followed.

Ms. Frasier discussed the finding of necessity for a CRA.

Chairman Dantzler adjourned meeting at 12:35 p.m.

**LAKE ALFRED CITY COMMISSION MEETING
DECEMBER 1, 2014**

1.) PUBLIC HEARING - ORDINANCE 1346-14: ANIMALS

ISSUE: The City of Lake Alfred will consider ordinance 1346-14 animals, amending Chapter 10 of the Code of Ordinances on second and final reading.

ATTACHMENTS:

- Ordinance 1346-14
- Polk County Animal Polk County Animal Control and Animal Services Ordinance
- Staff Summary: Polk County Animal Control
- FWC Nuisance Wildlife Guide <http://myfwc.com/conservation/you-conserve/assistnuisance-wildlife/>

ANALYSIS: As a part of a comprehensive review of the City Charter, City codes, and policies, city staff has identified an opportunity to clean-up and improve Chapter 10 of the Code of Ordinances related to animals.

The existing provisions within Chapter 10 tie back to state law and county ordinances related to the regulation of animals. However, the code has specific reference to a city issued permit for the destruction of nuisance animals and separate regulations for dogs. Florida Fish and Wildlife already have definitions and procedures in place for addressing nuisance wildlife. Additionally, the county animal control ordinance that we previously adopted by reference already provides regulations and penalties related to dogs and other animals.

The proposed ordinance removes these provisions within our code and better aligns it with state law and county ordinances related to the regulation of animals within the City.

STAFF RECOMMENDATION: Approval of Ordinance 1346-14 on second and final reading.

ORDINANCE 1346-14

AN ORDINANCE OF THE CITY OF LAKE ALFRED, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF LAKE ALFRED, FLORIDA, REGARDING ANIMALS WITHIN THE CITY OF LAKE ALFRED, FLORIDA; PROVIDING FOR THE CORRECTION OF SCRIVENERS ERRORS, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of Lake Alfred, Florida, was adopted in 1959 and prescribed regulations as related to animals; and

WHEREAS, as originally adopted by the City Commission of the City of lake Alfred, Florida, the regulations governing animals within the municipal boundaries of the City of Lake Alfred, Florida, were codified in Sections 10-1 through 10-38, Chapter 10, Code of Ordinances; and

WHEREAS, the City Commission of the City of Lake Alfred, Florida, has adopted certain amendments to the Code of Ordinances of the City of Lake Alfred, Florida, as related the regulations governing animals in order to maintain consistency with Florida law; and

WHEREAS, the City Commission of the City of Lake Alfred, Florida, has determined that the Code of Ordinances of the City of Lake Alfred, Florida, and the regulations governing animals must be amended in order to maintain consistency with Florida law, the regulations prescribed by the Florida Fish and Wildlife Conservation Commission, and the regulations prescribed by Polk County, Florida; and

WHEREAS, amending Chapter 10 of the Code of Ordinances of the City of Lake Alfred, Florida, in order to maintain consistency with Florida law and incorporate the regulations prescribed by the Polk County Animal Control and Animal Services Ordinance will advance the health, safety and welfare of the residents and citizens of the City of Lake Alfred, Florida.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Lake Alfred, Florida, that this Ordinance is hereby passed for the protection and welfare of the residents and citizens of the City of Lake Alfred, and that:

Section 1. Chapter 10 of the Code of Ordinances of the City of Lake Alfred, Florida, is hereby amended to read as follows (language stricken is shown in ~~strikethrough~~ format; language added is shown as underlined format):

Chapter 10 ANIMALS

ARTICLE I. IN GENERAL

- Section 10-1.** Wild game and birds protected.; ~~permit to destroy nuisances.~~
Section 10-2. Adoption of county animal control ordinance.
Sections 10-3 – 10-35 Reserved.

Sec. 10-1. Wild game and birds protected. ~~permit to destroy nuisances.~~

It shall be unlawful to shoot, trap or destroy birds, wild game or other wildlife within the corporate limits of the city. ~~However, the city manager may issue a permit for the destruction of hawks, squirrels or other wild bird or animal upon application and a showing by any person that any such bird, animal or rodent is destroying or damaging the property of such person or has become a nuisance. However, subject to applicable Florida law, any animal that has become nuisance wildlife (as defined by the Florida Administrative Code) may be trapped and disposed of in strict compliance with rules and regulations prescribed by the Florida Fish and Wildlife Conservation Commission.~~

Sec. 10-2. Adoption of county animal control ordinance.

There is adopted and incorporated by reference into this Code for the purpose of animal control, ~~the provisions of Ordinance Number 82-33, enacted by the board of county commissioners, which became effective March 1, 1983, as amended by Ordinance Number 83-10, enacted by the board of county commissioners on April 28, 1983, and as may be further amended by ordinances of the board of county commissioners. Three copies of these ordinances, with any subsequent amendments, shall be on file as required by law in the office of the city clerk. the regulations prescribed by the Polk County Animal Control and Animal Services Ordinance, as may be amended by the Board of County Commissioners of Polk County, Florida.~~

For purposes of animal control, the Polk County Animal Services Division shall be the enforcement agency within the municipal boundaries of the City of Lake Alfred, Florida.

ARTICLE II. DOGS

- ~~**Section 10-36.** Dogs running at large prohibited.
Section 10-37. Regulation of vicious dogs.
Section 10-38. Penalties.~~

Sec. 10-36. Dogs running at large prohibited.

~~No person shall cause or permit any dog to run or roam off the premises or property of the owner unless such dog is under the actual physical restraint of a leash or chain or confined within a vehicle.~~

Sec. 10-37. Regulation of vicious dogs.

~~It shall be unlawful for any person to own or keep a vicious dog within the city unless such dog is used for guard purposes and is in a substantial fence enclosure or under the direct physical control of the owner or other person in lawful charge and custody of such dog. The owner of any such dog shall be fully responsible for any injury or damage caused by the dog. A dog shall be considered vicious within the meaning of this section if such dog snaps at or bites any person or otherwise demeans itself in a vicious manner. Any such dog shall constitute a nuisance to the general public. Dogs used by city, county, state or federal officials for law enforcement purposes shall be exempt from this section.~~

Sec. 10-38. Penalties.

~~The owner or other person having charge of any dog who violates or fails to comply with the provisions of sections 10-36 or 10-37 shall be subjected to a fine as provided in addition to the daily impounding maintenance fees.~~

Section 2. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the City's Code of Ordinances, unless such repeal is explicitly set forth herein.

Section 3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City of Lake Alfred, Florida, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Lake Alfred; and that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the City of Lake Alfred is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of public hearing, by filing corrected or re-codified copy of same with the City Clerk.

Section 5. The effective date of this Ordinance shall be immediately upon adoption at Second Reading.

INTRODUCED AND PASSED on first reading at a regular meeting of the City Commission of Lake Alfred, Florida held this 17th day of November, 2014.

PASSED AND ENACTED ON SECOND READING, with a quorum present and voting, at the regular City Commission meeting of Lake Alfred, Florida, this 1st day of December, 2014.

**CITY OF LAKE ALFRED
CITY COMMISSION**

ATTEST:

By: _____
Nancy Z. Daley, Mayor

By: _____
Linda Bourgeois, M.M.C.
City Clerk

APPROVED AS TO FORM:

By: _____
Frederick J. Murphy Jr., City Attorney

ARTICLE II. - ANIMAL CONTROL AND SERVICES

FOOTNOTE(S):

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Editor's note— Section 30 of Ord. No. 10-001, repealed Ord. No. 05-047, from which Art. II, §§ 4-21—4-46 derived. Sections 1—29, of Ord. No. 10-001, enacted similar provisions which have been codified to read as herein set out.

Sec. 4-21. - Title.

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

(Ord. No. 10-001, § 1, 1-6-09 [1-6-10])

Sec. 4-22. - Definitions.

In construing this article, 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 held 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 officer, shall be defined as any person, pursuant to Section 828.03, Florida Statutes, 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 sixteen (16) hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

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 nonindigenous wildlife, under the exclusive jurisdiction of the state, animals used in connection with parimutuel 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 Section 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, retired judge, certified mediator, or certified legal intern appointed by resolution of the board of county commissioners to serve as an impartial mediator 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. Hearing officers shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the board of county commissioners, or as otherwise provided by law.

Livestock shall be defined as set forth in Section 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 article.

Overcrowding of the animal control facility [shall mean that the] 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 eighteen (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.

Stray shall be defined as all 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 multiyear. 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 Statutes.

(Ord. No. 10-001, § 2, 1-6-09 [1-6-10]; Ord. No. 13-035, § 1, 8-6-2013)

Sec. 4-23. - 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 article.

(Ord. No. 10-001, § 3, 1-6-09 [1-6-10]; Ord. No. 13-035, § 2, 8-6-2013)

Sec. 4-24. - 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-year or three-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 twelve (12) months, or until the expiration date of the vaccine, whichever is shorter. In the event a multiyear license tag is used the tag shall be valid for a maximum of three (3) 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 article 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 multiyear 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 nonvaccination 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 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.

(Ord. No. 10-001, § 4, 1-6-09 [1-6-10])

Sec. 4-25. - 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 multiyear 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, subcontractors, 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.

(Ord. No. 10-001, § 5, 1-6-09 [1-6-10]; Ord. No. 13-035, § 3, 8-6-2013)

Sec. 4-26. - 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) Multiyear license tags for altered cats and dogs;
 - (4) Multiyear license tags for unaltered cats and dogs;
 - (5) Late fee for failure to renew licenses within thirty (30) 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, nonquarantined 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.

(Ord. No. 10-001, § 6, 1-6-09 [1-6-10]; Ord. No. 13-035, § 4, 8-6-2013)

Sec. 4-27. - 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 article.

(Ord. No. 10-001, § 7, 1-6-09 [1-6-10])

Sec. 4-28. - 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.

(Ord. No. 10-001, § 8, 1-6-09 [1-6-10]; Ord. No. 13-035, § 5, 8-6-2013)

Sec. 4-29. - 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 article.
 - (1) Healthy animals wearing a current, valid tag, collar with license or owner contact information, implanted with an 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, as defined in Polk County Ordinance No. 93-28.

(Ord. No. 10-001, § 9, 1-6-09 [1-6-10]; Ord. No. 13-035, § 6, 8-6-2013)

Sec. 4-30. - 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 4-31(a)(1) or (2).

(Ord. No. 10-001, § 10, 1-6-09 [1-6-10])

Sec. 4-31. - 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 article 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 (2) 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 fifteen (15) minutes 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 shall investigate and may cause to be issued a notice of violation to any companion animal owner or custodian alleged to be in violation of this section, if the investigation supports such an action. Said affidavit shall specify the address or location of the alleged violation; the nature, time and dates of the acts; 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 ninety (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.

(Ord. No. 10-001, § 11, 1-6-09 [1-6-10])

Sec. 4-32. - 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.

(Ord. No. 10-001, § 12, 1-6-09 [1-6-10])

Sec. 4-33. - 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 article. 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.

(Ord. No. 10-001, § 13, 1-6-09 [1-6-10])

Sec. 4-34. - 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.

(Ord. No. 10-001, § 14, 1-6-09 [1-6-10])

Sec. 4-35. - Restrictions on commercially supplied guard dogs; inability to use dangerous or vicious 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 4-34 of this article.
- (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 or vicious dog in accordance with this article or Chapter 767, Florida Statutes, shall be ineligible to serve as a guard dog.

(Ord. No. 10-001, § 15, 1-6-09 [1-6-10])

Sec. 4-36. - 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 one hundred-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 article 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 article.
- (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, subcontractors, 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.

(Ord. No. 10-001, § 16, 1-6-09 [1-6-10])

Sec. 4-37. - Penalties for guard dog violation.

- (a) For any violation of this article 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 4-34 and 4-35, shall be issued to the person(s) possessing or utilizing the guard dog. Citations relevant to section 4-35 of this article shall be issued to the commercial guard dog business supplying the guard dog.

(Ord. No. 10-001, § 17, 1-6-09 [1-6-10]; Ord. No. 13-035, § 7, 8-6-2013)

Sec. 4-38. - Classification of dogs as dangerous.

- (a) "Dangerous dog" means any dog that, according to the records of the animal control 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;
 - (3) 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.
- (b) For purposes of this section:
 - (1) "Unprovoked" shall mean 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.
 - (2) "Severe injury" shall be defined as any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.
 - (3) "Proper enclosure of a dangerous dog" shall mean, 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.
- (c) The animal control authority shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous. Any animal that is the subject of a dangerous dog investigation, that is not impounded with the animal control authority, 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 authority. In the event that the animal control authority has sufficient cause to believe that a dog is dangerous and that the owner is unable or unwilling to humanely, safely and securely confine the dog, the animal control authority may impound the dog pending the investigation if deemed necessary to protect the public. The owner shall be responsible for payment of all boarding costs and other fees required for the division to care for the dog pending the outcome of the investigation and resolution of any hearing related to dangerous dog classification. An owner's refusal to surrender a dog for impoundment pending the investigation shall constitute a violation of this ordinance. 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.

- (d) A dog shall not be declared dangerous if 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 sustained the threat, injury, or damage. 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.
- (e) After the investigation, the animal control authority 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 authority 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 seven (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 twenty-one (21) calendar days and no sooner than five (5) days after receipt of the request from the owner. If a hearing is requested, it will be conducted before a hearing officer and pursuant to section 4-42 of this article. An owner's failure to request a hearing within seven (7) calendar days from the date of receipt of the notification of the sufficient cause finding will result in the finding becoming a final determination, and the dog will be classified as dangerous.
- (f) Once a dog is classified as a dangerous dog, the animal control authority 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 ten (10) calendar days after receipt of a written determination of dangerous dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Appeals shall be conducted pursuant to section 4-43 of this article.
- (g) Within fourteen (14) days after a dog has been classified as dangerous by the animal control authority or a dangerous dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and the certificate shall be renewed annually. Animal control authorities are authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least eighteen (18) years of age and who present to the animal control authority 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 clearly informs both children and adults of the presence of a dangerous dog on the property. The sign must be at a minimum one foot wide by one foot tall and resistant to weather.
 - (3) Implantation of an RFID microchip to identify the dog; and
 - (4) Spay or neuter dangerous animals within fourteen (14) days of declaration.
 - (5) Register for, and attend to completion, dog obedience training from an instructor approved by the animal control authority. Training prior to the classification is not acceptable.
 - (6) Provide the animal control authority access to property and the dog to verify compliance.
- (h) Annual fee for the issuance of certificates of registration shall be determined by the animal control authority.
- (i) The owner shall immediately notify the appropriate animal control authority 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 to be sold, given away, moved to another address, or if the dog dies.
- (j) 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 authority. The new owner must comply with all of the requirements of this act and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state. The owner of a dog classified as dangerous must notify the animal control officer that the dog is in his or her jurisdiction.
 - (k) It is unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons eighteen (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.
 - (l) Hunting dogs are exempt from the provisions of this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from the provisions of this section when engaged in any legal procedures. However, such dogs at all other times in all other respects shall be subject to this and local laws. Dogs that have been classified as dangerous shall not be used for hunting or sporting purposes.
 - (m) This section does not apply to dogs used by law enforcement officials for law enforcement work.
 - (n) Any person who violates any provision of this section is guilty of a non-criminal infraction, punishable by a fine not exceeding five hundred dollars (\$500.00).
 - (o) The animal control authority may confiscate any dog classified as dangerous for euthanasia as a result of the owner's failure to comply with any or all requirements of the ordinance. Should the animal control authority confiscate any dog under this section, notice of sufficient cause to confiscate the animal shall be provided in writing to the owner in accordance with the ordinance. The animal shall be held for ten (10) business days after the owner is provided this written notice and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under this section.

(Ord. No. 10-001, § 18, 1-6-09 [1-6-10]; Ord. No. 13-035, § 8, 8-6-2013)

Sec. 4-39. - Attack or bite by a dangerous dog; penalties; confiscation; destruction.

- (a) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held for ten (10) business days after the owner is given written notification under section 4-38 of the ordinance and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 4-38 of this article. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.
- (b) If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time or held for ten (10) business days after the owner is given written notification under section 4-38 of this article, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under section 4-38 of this article. The owner shall be responsible for payment of all boarding costs

and other fees as may be required to humanely and safely keep the animal during any appeal procedure. In addition, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes.

- (c) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in Section 775.082, 775.083, or 775.084, Florida Statutes. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time or held for ten (10) business days after the owner is given written notification under section 4-38 of this article, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing under 4-38 of this article. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.
- (d) If the owner files a written appeal under section 4-43 of this article or this section, the dog must be held and may not be destroyed while the appeal is pending.
- (e) If a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner is not guilty of any crime specified under this section.

(Ord. No. 10-001, § 19, 1-6-09 [1-6-10]; Ord. No. 13-035, § 9, 8-6-2013)

Sec. 4-40. - Classification of dogs as vicious.

- (a) "Vicious dog" shall be defined as any dog that, according to the records of the animal control authority, has severely injured or killed a domestic animal while off the owner's property.
- (b) For purposes of this section:
 - (1) "Severe injury" shall be defined as any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.
 - (2) "Proper enclosure of a vicious dog" shall mean, while on the owner's property, a vicious 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.
- (c) The animal control authority shall investigate reported incidents involving any dog that may be vicious and shall, if possible, interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as vicious. Any animal that is the subject of a vicious dog investigation that is not impounded with the animal control authority, 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 vicious dog classification. The address of where the animal resides shall be provided to the animal control authority. In the event the animal control authority has sufficient cause to believe that a dog is vicious and that the owner is unable or unwilling to humanely, safely and securely confine the dog, the animal control authority may impound the dog pending the investigation if deemed necessary to protect the public. The owner shall be responsible for payment of all boarding costs and other fees required for the division to care for the dog pending the outcome of the investigation and resolution of any hearing related to vicious dog classification. An owner's refusal to surrender a dog for impoundment pending the investigation shall constitute a violation of this article. No dog that is the subject of a vicious dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a vicious dog classification.
- (d) No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

- (e) After the investigation, the animal control authority shall make an initial determination as to whether there is sufficient cause to classify the dog as vicious and shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control authority 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 seven (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. If a hearing is requested, it will be conducted before a hearing officer and pursuant to section 4-42 of this article. An owner's failure to request a hearing within seven (7) calendar days from the date of receipt of the notification of the sufficient cause finding will result in the finding becoming a final determination, and the dog will be classified as vicious.
- (f) Once a dog is classified as a vicious dog, the animal control authority 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 ten (10) business days after receipt of a written determination of dangerous or vicious dog classification and must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal. Appeals shall be conducted pursuant to section 4-43 of this article.
- (g) Within fourteen (14) business days after a dog has been classified as vicious by the animal control authority or a vicious dog classification is upheld by the county court on appeal, the owner of the dog must obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and the certificate shall be renewed annually. Animal control authorities are authorized to issue such certificates of registration, and renewals thereof, only to persons who are at least eighteen (18) years of age and who present to the animal control authority sufficient evidence of:
 - (1) A current certificate of rabies vaccination for the dog.
 - (2) A proper enclosure to confine a vicious dog and the posting of the premises with a clearly visible warning sign at all entry points that clearly informs both children and adults of the presence of a vicious dog on the property. The sign must be at a minimum one foot wide by one foot tall and resistant to weather.
 - (3) Implantation of an RFID microchip to identify the dog; and
 - (4) Spay or neuter vicious animals within fourteen (14) business days of declaration.
 - (5) Register for, and attend to completion, dog obedience training from an instructor approved by the animal control authority. Training prior to the classification is not acceptable.
 - (6) Provide the animal control authority access to property and the dog to verify compliance.
- (h) Annual fee for the issuance of certificates of registration shall be determined by the animal control authority.
- (i) The owner shall immediately notify the appropriate animal control authority when a dog that has been classified as vicious:
 - (1) Is loose or unconfined;
 - (2) Has bitten a human being or attacked another animal; or
 - (3) Is to be sold, given away, moved to another address, or if the dog dies.
- (j) Prior to a vicious dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The new owner must comply with all of the requirements of this act and implementing local ordinances. The owner of a dog classified as vicious must notify the animal control officer that the dog is in his or her jurisdiction.
- (k) It is unlawful for the owner of a vicious dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with

its vision or respiration but will prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the immediate household or persons eighteen (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.

- (l) Dogs that have been classified as "vicious" shall not be used for hunting or sporting purposes.
 - (m) This section does not apply to dogs used by law enforcement officials for law enforcement work.
 - (n) Any person who violates any provision of this section is guilty of a non-criminal infraction, punishable by a fine not exceeding five hundred dollars (\$500.00) requiring the owner(s) appearance in court.
- (Ord. No. 13-035, § 10, 8-6-2013)

Sec. 4-41. - Bite by police or service dog; exemption from quarantine.

Any dog that is owned, or the service of which is employed, by a law enforcement agency, or any dog that is used as a service dog for blind, hearing impaired, or disabled persons, and that bites another animal or human is exempt from any quarantine requirement following such bite if the dog has a current rabies vaccination that was administered by a licensed veterinarian.

(Ord. No. 10-001, § 20, 1-6-09 [1-6-10]; Ord. No. 13-035, § 11, 8-6-2013)

Sec. 4-42. - Dangerous or vicious 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 twenty (20) 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.

(Ord. No. 10-001, § 21, 1-6-09 [1-6-10]; Ord. No. 13-035, § 12, 8-6-2013)

Sec. 4-43. - Appealing the dangerous or vicious dog classification.

The owner may file a written request for hearing in the county court to appeal the classification within ten (10) days receipt of the written determination.

(Ord. No. 10-001, § 22, 1-6-09 [1-6-10]; Ord. No. 13-035, § 13, 8-6-2013)

Sec. 4-44. - 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.

(Ord. No. 10-001, § 23, 1-6-09 [1-6-10]; Ord. No. 13-035, § 14, 8-6-2013)

Sec. 4-45. - Duties and authority of officers.

It shall be the duty of all animal control officers, deputy sheriffs, or local police officers to enforce this article and its amendments, if any. An animal control officer is hereby authorized to issue citations and notices to appear for the violation of this article when, based upon personal investigation, the officer has reasonable and probable grounds to believe that a violation of this article has occurred.

(Ord. No. 10-001, § 24, 1-6-09 [1-6-10]; Ord. No. 13-035, § 14, 8-6-2013)

Sec. 4-46. - 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 article, such action may be punishable pursuant to Section 838.021, Florida Statutes.

(Ord. No. 10-001, § 25, 1-6-09 [1-6-10]; Ord. No. 13-035, § 15, 8-6-2013)

Sec. 4-47. - Penalties for violation.

Except where specified under certain sections of this article, violation of any provision in this article, 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 article 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 article relevant to interference with any animal control officer, the civil penalty shall be in the amount of two hundred 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) All fines may be changed by resolution of the board.

(Ord. No. 10-001, § 26, 1-6-09 [1-6-10]; Ord. No. 13-035, § 15, 8-6-2013)

Sec. 4-48. - 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 4-49 of this article, for the violation.
 - (9) If applicable, a twenty-five (25) per cent 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 (25) per cent reduction in the civil penalty amount.

(Ord. No. 10-001, § 27, 1-6-09 [1-6-10]; Ord. No. 13-035, § 16, 8-6-2013)

Sec. 4-49. - Procedure upon citation.

- (a) Any person cited for violation of this article shall be deemed charged with a noncriminal infraction. Any person cited for an infraction under this article 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 (25) per cent 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-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 article 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 article.

(Ord. No. 10-001, § 28, 1-6-09 [1-6-10]; Ord. No. 13-035, § 17, 8-6-2013)

Sec. 4-50. - 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.

(Ord. No. 10-001, § 29, 1-6-09 [1-6-10]; Ord. No. 13-035, § 17, 8-6-2013)

68A-1.004 Definitions.

The following definitions are for the purpose of carrying out the provisions of the rules of the Fish and Wildlife Conservation Commission relating to wild animal life and freshwater aquatic life. As used herein, the singular includes the plural. The following shall be construed respectively to mean:

- (1) Airboat – Any boat, sled, sea skiff or swamp boat pushed, pulled or propelled by airpower generated by a motor of more than 25 horsepower.
- (2) Alligator exhibit – A facility in which alligators are confined in such a manner that the general public may view the reptiles, with or without fee.
- (3) Alligator farm – A facility in which alligators, hatchlings and eggs have been lawfully reduced to private control, confinement and possession and from which alligators, their hides, meat and products may be sold.
- (4) Alligator hatchling – Any alligator that is less than nine inches in length measured in a straight line along the belly from the tip of the snout to the rear margin of the cloacal vent.
- (5) All-terrain vehicle – An engine-powered vehicle with wheels or tracks of less than a 60-inch wheelbase measured from the center of the forward wheel or hub to the center of the rearmost wheel or hub.
- (6) Amphibians – All members of the class Amphibia (for example frogs, toads, mudpuppies, newts and salamanders).
- (7) Antlered deer – Any deer having one or more antlers at least five inches in length visible above the hairline.
- (8) Antlerless deer – Any deer, except a spotted fawn, that is without antlers or whose antlers are less than five inches in length visible above the hairline.
- (9) Antler point – Any antler projection that is at least one inch in length.
- (10) Artificial bait – Any fish lure that is not a natural food for fish.
- (11) Artificially propagated game – Game that is hatched or born and raised in captivity. The term “artificially propagated” is synonymous with the term “pen raised.”
- (12) Bag limit – The maximum number of individual specimens of fish or wildlife which may lawfully be taken or possessed by one person in a specified time.
- (13) Birds – The various forms of wildlife belonging to the class Aves, having both feathers and wings.
- (14) Bird sanctuary – An area established for the protection of birds and other wildlife in which hunting is prohibited in developed areas in the interest of safety, unless otherwise provided by specific regulation of the Commission.
- (15) Black bass – Any bass included in the genus *Micropterus*.
- (16) Bow – A device consisting of flexible material having a string connecting its two ends for the purpose of discharging arrows; which propels arrows only by the energy stored by the drawing of the device; which has a minimum draw weight of 35 pounds; which is hand-held, hand-drawn and hand-released; which is not equipped with a device that can mechanically hold the bowstring in the drawn (ready to fire) position; and which may include mechanical bowstring release devices provided they are only hand-held.
- (17) Bush hook – A single line with a single hook attached to a tree, bush, shore or other structure.
- (18) Captive wildlife – Any wildlife, specifically birds, mammals, reptiles, and amphibians maintained in captivity for exhibition, sale, personal use, propagation, preservation, rehabilitation, protection or hunting purposes.
- (19) Closed season – The calendar period during which the taking of freshwater fish or wildlife is prohibited.
- (20) Commission – The Fish and Wildlife Conservation Commission, established pursuant to Article IV, Section 9, Florida Constitution.
- (21) Common carrier – Railroad companies, airlines, water carriers, express companies, stage or bus companies, persons or companies operating stages, buses or airplanes, or any such person, firm, or corporation certified as a common carrier by the appropriate state or federal agency.
- (22) Critical Incident – Any condition which results in the release or escape of captive wildlife from its enclosure, cage, leash, or other constraint.
- (23) Critical wildlife area – An area established by the Commission which is regulated to minimize the adverse impact on wildlife due to man-caused disturbance or destruction.
- (24) Crossbow – A device consisting of a bow affixed to a stock for discharging quarrels, bolts, or arrows and which utilizes a non-hand-held locking mechanism to maintain the device in a drawn or ready-to-discharge condition.
- (25) Daylight hours – The time of day from one-half hour before sunrise until one-half hour after sunset.

(26) Disaster – A sudden calamitous event that causes great damage, loss or destruction. Examples include a hurricane, tornado or other severe storm, flood, wildfire, or any other similar natural disaster, terrorist act, biological or radiological event, or any other similar man made disaster.

(27) Executive director – The administrative head of the Commission.

(28) Falconry – The sport of taking quarry by means of a trained raptor.

(29) Fawn deer – Any native deer with visible spots.

(30) Florida Endangered and Threatened Species – species of fish or wild animal life, subspecies or isolated populations of species or subspecies, whether vertebrate or invertebrate, that are native to Florida which are endangered and threatened under Commission rule as either:

(a) Federally-designated Endangered and Threatened species by virtue of designation as endangered or threatened by the United States Departments of Interior or Commerce under the Endangered Species Act, 16 U.S.C. § 1531, et seq. and rules thereto; or

(b) As a State-designated Threatened species. Florida Endangered and Threatened species retain their status regardless of subsequent changes in scientific nomenclature or subsequent identification of species or subspecies within the species listed.

(31) Freshwater fish – All of the species that are indigenous to fresh water.

(32) Freshwater game fish:

(a) The following members of the Genus *Micropterus*:

1. Largemouth bass (*Micropterus salmoides*).

2. Shoal bass (*Micropterus cataractae*).

3. Suwannee bass (*Micropterus notius*).

4. Spotted bass (*Micropterus punctulatus*).

(b) The following members of the Genus *Pomoxis*:

1. Black crappie (*Pomoxis nigromaculatus*).

2. White crappie (*Pomoxis annularis*).

(c) The following fishes commonly called panfish:

1. Bluegill (*Lepomis macrochirus*).

2. Redear (*Lepomis microlophus*).

3. Redbreast (*Lepomis auritus*).

4. Flier (*Centrarchus macropterus*).

5. Warmouth (*Lepomis gulosus*).

6. Longear (*Lepomis megalotis*).

7. Mud sunfish (*Acantharchus pomotis*).

8. Shadow bass (*Ambloplites ariommus*).

9. Spotted sunfish (*Lepomis punctatus*).

(d) Freshwater white bass (*Morone chrysops*).

(e) Striped bass (*Morone saxatilis*).

(f) White bass-striped bass hybrid and its reciprocal known locally as sunshine bass.

(g) All members of the genus *Cichla* commonly known as peacock bass including the butterfly peacock (*Cichla ocellaris*) and speckled peacock (*Cichla temensis*).

(33) Fish management area – A pond, lake, or other body of water established for the management of freshwater fish, on which public fishing or other outdoor recreation is permitted in accordance with regulations specifically provided for each individual area.

(34) Furbearers – Raccoon, opossum, skunk, nutria, beaver, coyote, fox, bobcat, otter, mink, weasel, and round-tailed muskrat.

(35) Game – Game mammals and game birds.

(36) Game birds – Wild turkey, quail, rails, snipe, woodcock, ducks, geese, brant, dove, coot, common moorhen, and non-native species generally considered game such as pheasant, chukar partridge, and coturnix quail.

(37) Game farm – An area or establishment where game is produced by artificial propagation.

(38) Game mammals – Deer, gray squirrel, rabbits, and non-native species generally considered game such as elk, antelope and buffalo.

(39) Gun – Shotgun, rifle, pistol, revolver, air gun, gas gun, blow gun, bow, crossbow, or any other device mechanically propelling an arrow, spear, or other projectile.

(40) Legal game – Antlered deer, gray squirrel, rabbit, quail, rail, snipe, woodcock, duck, dove, geese, coot and common moorhen during open seasons established for each species by Rule 68A-13.003, 68A-13.004 or 68A-13.008, F.A.C., unless otherwise stipulated for a particular species in a regulation established for a specific wildlife management area, wildlife and environmental area, public small game hunting area or public use areas.

(41) Light – Any artificial light for use in taking wildlife or freshwater fish.

(42) Mammals – Wildlife belonging to the class Mammalia, having hair and feeding their young on milk.

(43) Migratory birds – All birds included in the Migratory Bird Treaty Act, 16 U.S.C. 703-711.

(44) Migratory game birds – Ducks, geese, brant, rail or marsh hen, coot, common moorhen, snipe, woodcock and doves.

(45) Muzzleloading gun – A firearm that cannot be loaded from the breech and is fired by wheel lock, flintlock, percussion cap, or centerfire primer.

(46) Non-game fish – All freshwater fish species, except grass carp, not listed in subsection 68A-1.004(32), F.A.C., as freshwater game fish.

(47) Non-performing wildlife – Wildlife which is exhibited to the public in a mobile cage or enclosure and is not removed from such enclosure for regular exercise or performing activities.

(48) Non-protected birds – Birds for which no closed season or bag limit is established.

(49) Non-protected mammals – Mammals for which no closed season or bag limit is established.

(50) Nuisance wildlife – Wildlife that causes or is about to cause property damage, presents a threat to public safety, or wildlife causing an annoyance within, under or upon a building.

(51) Open season – The calendar period during which freshwater fish or wildlife may be lawfully taken.

(52) Performing wildlife – Wildlife that is rehearsed, controlled, or monitored by a trainer and can accomplish a consistent routine conducted under the discipline of the trainer.

(53) Permanent blind – anything that provides shelter, cover, or place of concealment for a person, but does not include any rooted vegetation or a shelter, cover, or place of concealment remaining in place only while the person is present.

(54) Person – The word “person” as used in these rules shall have the same meaning as in Section 1.01, F.S.

(55) Personal pet – Wildlife maintained in captivity primarily for personal use or enjoyment.

(56) Possession – The word “possession” whenever used in these rules shall mean any one of the following:

(a) Manual possession.

(b) Physical possession.

(c) Control or custody.

(d) Possession in one’s clothing, attire or equipment.

(e) Possession in or about a vessel, vehicle or beast of burden under one’s custody or control, including but not limited to compartments, drawers, pockets, trunks, and similar places in and about such vessel, vehicle, or beast of burden.

(57) Possession limit – The maximum number of individual specimens of freshwater fish or wildlife which may be lawfully possessed.

(58) Prepared alligator meat – Alligator meat that is cooked or cured in a manner allowing it to be consumed by humans without further preparation.

(59) Private lands – Lands not owned by, or under any contractual use agreement with, any governmental body.

(60) Private hunting preserve – An area designated and licensed by an individual or concern on which artificially propagated game is taken.

(61) Private pond – Any man-made body of water that is located entirely within the property of the owner of the water body and has no surface water connection to public waters.

(62) Raptor – A bird which is a member of the Accipitridae (except the bald eagle) or Falconidae family; or a great horned owl.

(63) Regions – The following geographical portions of the state:

(a) Southwest Region: Charlotte, DeSoto, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk and Sarasota counties.

(b) North Central Region: Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Suwannee, Taylor and Union counties.

(c) Northwest Region: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton and Washington counties.

(d) South Region: Broward, Collier, Dade, Glades, Hendry, Martin, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

(e) Northeast Region: Brevard, Flagler, Indian River, Lake, Marion, Orange, Osceola, Putnam, Seminole, Sumter, St. Johns and Volusia counties.

(64) Relative – An individual who is related as: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half brother, or half sister.

(65) Reptiles – All members of the class Reptilia (for example, alligators, caimans, crocodiles, turtles, lizards and snakes).

(66) Reptiles of Concern – As designated by the Commission, any member of the class Reptilia, including subspecies, taxonomic successors or hybrids thereof, which due to its nature, has habits or the potential to impact the environment, may be possessed and housed only in accordance with the regulations provided for reptiles of concern.

(67) Resident game birds – Wild turkey and quail.

(68) Restricted hunting area – An area established in which hunting is prohibited in developed areas in the interest of safety unless otherwise provided by specific permit.

(69) Rough fish – Common carp, gars, gizzard shad, threadfin shad, suckers, tilapia and bowfin.

(70) Sell – The transfer of property or other things to a buyer for an agreed price. The term shall include all lesser acts related thereto, such as attempting to sell, offering to sell, to barter, exchange, or trade.

(71) Set line – See bush hook.

(72) Small game – Game species other than deer, wild hog or wild turkey.

(73) Small game season – The calendar period during which small game may be taken, provided that migratory game birds may be taken only during seasons established under Rules 68A-13.003 and 68A-13.008, F.A.C.

(74) Snare – A trapping device consisting of a noose designed to capture wildlife.

(75) Snatch hook – Any device which includes one or more hooks used for the purpose of hooking fish other than in the mouth. A gaff hook used for landing fish taken by hook and line or rod and reel shall not be included in the meaning of the term.

(76) Special season – The calendar period during which specified game species may be hunted only by the use of a designated hunting device at a time other than the general hunting season for that species.

(77) Spring turkey season – The designated spring period during which only gobblers or bearded turkeys may be taken.

(78) Steel trap – Any mechanical device (other than a snare or a device commonly used to take nuisance moles, pocket gophers or household rodents) that is designed and used to take wildlife by seizing and holding a part of the body.

(79) Take – The term shall include taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater fish, or their nests or eggs by any means whether or not such actions result in obtaining possession of such wildlife or freshwater fish or their nests or eggs.

(80) To close – To prohibit the taking of wildlife or freshwater fish.

(81) To open – To permit the taking of wildlife or freshwater fish during the open season.

(82) Total length – In freshwater fish means the straight line distance from the most forward point of the head with the mouth closed to the farthest tip of the tail with the tail compressed or squeezed, while the fish is lying on its side.

(83) Transport – Shipping, transporting, carrying, importing, exporting, receiving or delivering for shipment, transportation or carriage or export.

(84) Triploid grass carp – Freshwater fish also called white amur, belonging to the family Cyprinidae and known scientifically as *Ctenopharyngodon idella*, which have been genetically altered to contain three sets of chromosomes, thus rendering them functionally sterile. Only such fish as have been determined to be triploid by the producer using scientifically accepted methods and verified by the use of a Coulter Counter by the Commission or by the U.S. Fish and Wildlife Service are included in this definition.

(85) Trotline – A multiple hook and line device consisting of a main line to which shorter lines are attached at intervals.

(86) Untanned skin – Any skin or hide that has not been processed beyond the fleshed, salted or stretched stage.

(87) Venomous reptile – All members of the class Reptilia including their taxonomic successors, subspecies, or any hybrid thereof, regardless of surgical alteration, determined to have the potential to cause serious human injury due to the toxic effects of its venom or poison. Including all venomous reptiles of the class Reptilia belonging to the families Elapidae, Crotalidae, Viperidae, and Hydrophiidae; all reptiles in the genus *Heloderma*; and all reptiles in the family Colubridae belonging to the genera: *Rhabdophis*, *Boiga*, *Dispholidus*, *Thelatornis*, and *Atractapsis*.

(88) Wild hog – A hog that is free-roaming and which cannot be legally claimed as a domestic hog in private ownership.

(89) Wildlife – All wild or non-domestic birds, mammals, fur-bearing animals, reptiles and amphibians.

(90) Wildlife and environmental area – Endangered or environmentally unique habitats which shall have as their primary management objective the protection and conservation of their endangered or unique resources. Outdoor recreation will be specifically provided for in regulations established for each area when such use does not conflict with the primary management objectives.

(91) Wildlife management area – An area of private or public ownership established for the management of wildlife or freshwater fish on which hunting, fishing or other outdoor recreation may be permitted only at such times and under such regulations as are specifically provided for each individual area.

Wildlife management area – Such an area upon which the users are subject to the management area stamp requirements of Section 379.354, F.S., excluding lands owned by the United States of America, Department of Defense.

(92) Wildlife refuge – An area within which the taking of wildlife is prohibited and the taking of freshwater fish is prohibited when so provided by the order establishing the refuge.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 6-15-81, 11-17-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-1.04, Amended 6-1-86, 5-10-87, 10-8-87, 3-1-88, 4-13-88, 4-27-89, 4-11-90, 7-1-92, 4-20-93, 3-1-94, 7-1-94, 4-1-96, 11-23-97, 7-1-98, 6-23-99, Formerly 39-1.004, Amended 7-1-00, 5-1-01, 5-1-03, 7-1-04, 5-26-05, 7-1-06, 4-1-07, 7-1-08, 10-23-08, 7-1-10, 11-8-10, 1-1-11, 4-9-13.

GENERAL SUMMARY – POLK COUNTY ANIMAL CONTROL ORDINANCE

- Provides that all dogs must be provided with shelter from inclement weather at all times
- Prohibits any dog or unaltered cat to run at large. All dogs must be leashed or under "direct control" of the person in custody
- Defines abandoned animals, provides that animal control may take custody of abandoned animal, provides for holding periods, disposition of unclaimed animals and quarantine
- Authorizes animal control officers to enter private property in pursuit of animal
- Authorizes animal control to impound stray or at-large dogs and cats, including a feral cat colony if the cat(s) create public health/safety concerns and/or create a nuisance
- Clearly defines nuisance, See Section 4-31(a)
- Authorizes animal control officers to seize sick or injured animals to protect public health/safety and to protect animal from suffering
- Classifies dangerous or vicious dogs, investigation, penalties, confiscation and destruction
- Assigns duty and authority of animal control officers, deputy sheriffs or local police officers to enforce the ordinance
- Provides penalties for any violation of ordinance
- Provides form of citation and procedure

**LAKE ALFRED CITY COMMISSION MEETING
DECEMBER 1, 2014**

2.) CITY CENTER COMMUNITY DEVELOPMENT DISTRICT STORAGE AGREEMENT

ISSUE: The City of Lake Alfred will consider an agreement for the storage of records for City Center Community Development District.

ATTACHMENTS:

- City Center storage agreement

ANALYSIS: In order to provide access to public records, a community development district must store its public records within the respective County in which it is located. On June 4, 2007 the City of Lake Alfred entered into an agreement for the storage of records with the City Center Community Development District. After a brief foreclosure period, the company has recently requested for the City to continue providing this service.

This agreement has been amended from the original which now provides for annual billing, and the addition of an indemnification clause. The City of Lake Alfred will receive \$600 annually to store approximately five (5) three-ring binders within our City vault.

STAFF RECOMMENDATION: Approval of City Center Community Development District storage agreement.

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF LAKE ALFRED
AND
CITY CENTER COMMUNITY DEVELOPMENT DISTRICT**

THIS AGREEMENT entered into as of the ____ day of _____, 2014, by and between **THE CITY OF LAKE ALFRED**, a Florida municipal corporation (“Lake Alfred”) and the City Center **COMMUNITY DEVELOPMENT DISTRICT**, a Florida special district (“City Center CDD”);

NOW, THEREFORE, in consideration of the mutual covenants and agreements, the parties agree as follows:

1. **Authority for Agreement.** This Agreement is entered into pursuant to the Florida Interlocal Cooperation Act of 1969, Section 163.01, et seq., Florida Statutes (“the Act”), and pursuant to the constitutional statutory powers of Lake Alfred and the City Center;

2. **Recitations.**

A. Lake Alfred, in order to provide additional services to public agencies has established a process to act as records custodian for various public agencies desiring to avail themselves to such service;

B. City Center CDD, in order to provide easy public access to its District Records is desirous of utilizing Lake Alfred’s records custodian process;

3. **Establishment of Records Custodian.** Lake Alfred during the term of this Interlocal Agreement, shall act as custodian of the City Center CDD records. Such records shall include all records that are received by Lake Alfred from the City Center CDD or its designee. Lake Alfred is in no way responsible for any records that may have been sent by City Center CDD that are not received by Lake Alfred. All records are the property of City Center CDD and are entrusted with Lake Alfred for public access and review. At the termination of this Interlocal Agreement all records that have been received and retained by Lake Alfred will be returned to the City Center CDD.

4. **Public Access to Records.** As custodian of the records, Lake Alfred will provide public access to all records on file pertaining to the City Center CDD. Access will be granted pursuant to Chapter 119, Florida Statutes and/or any applicable Florida laws and provisions of Florida’s Constitution.

5. **Payment for Services.** City Center CDD shall incur an annual fee in the amount of \$600.00 (payable annually) for custodial services in relation to its records. The annual fee shall be payable to the City of Lake Alfred within ten (10) days of October 1st (fiscal year) each year, and will continue as such during each renewal of this Interlocal Agreement. If payment of the annual fee is not received within thirty (30) days following the beginning of the fiscal year, this

Interlocal Agreement will become null and void. A pro-rated (\$50.00 per month) invoice credit will be given to the City Center CDD upon initial execution for months of custodial services not utilized within the current fiscal year. Lake Alfred reserves the right to adjust the annual fee at each renewal period having given written notice of at least thirty (30) days prior to the annual renewal date to City Center CDD of its intent to adjust the fee.

6. Duration of this Agreement. This Interlocal Agreement shall be in force for one (1) year from the effective date and shall automatically renew for an additional year each successive year. Either party may terminate this Interlocal Agreement upon sixty (60) days written notice prior to the annual renewal date. Upon receipt of written notice from Lake Alfred to terminate this Interlocal Agreement, City Center CDD shall have sixty (60) days to designate a new records custodian and move its records to the new location.

7. Notices. Notices by one party to the other shall be given by depositing same in the United States Mail postage pre-paid at the following addresses:

To Lake Alfred: Ryan Leavengood
City Manager
City of Lake Alfred
155 E. Pomelo Street
Lake Alfred, FL 33850

And

With a copy to: Frederick J. Murphy, Jr., Esquire
(which shall not City Attorney
constitute notice) City of Lake Alfred
P.O. Drawer 30
Bartow, FL 33850

To City Center: Patricia Comings-Thibault, District Manager
1060 Maitland Center Commons Suite 340
Maitland, Fl. 32751
321-263-0132 X 205

And

District Counsel
Tracy Robin
Straley & Robin
1510 W. Cleveland Street
Tampa, Florida 33606
813-223-9400

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

8. This Agreement shall take effect upon the later of the initial receipt of records from City Center CDD and/or the approval by the City Commission of the City of Lake Alfred.

9. City Center CDD Indemnification of City. City Center CDD will indemnify and hold the City its elected and appointed officials, officers, employees, and agents harmless from any and all suits, actions, claims, demands, losses, costs, damages, liabilities, judgments, fines, expenses, taxes and assessments, and penalties (including reasonable attorneys' fees and court and other dispute resolution costs) arising out of: (i) any actions filed against the City as a result of the City's provision of records custodian services to the City Center CDD except in the event that the city's negligence is adjudged to be the sole cause of such claims that are the subject of the indemnification given hereunder; and/or (ii) The City Center CDD's breach of any term or condition of this Agreement; and/or (iii) the negligence or reckless, willful, or intentionally wrongful misconduct of City Center CDD except in the event that the City's sole negligence is adjusted to be the cause of such claims that are the subject of the indemnification given hereunder. Provided however that the City by being given any indemnities under this Agreement does not intend to waive its Sovereign Immunity or the limits of its liability as set forth in Section 768.28 of the Florida Statutes for any such claims arising out of any indemnities given to the City under this Agreement regardless of whether any such obligations are based in tort, contract, strict liability, statute, product liability, negligence or otherwise.

10. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Florida. Venue for any actions arising out of this Agreement shall be filed exclusively in the State Courts in and for Polk County, Florida.

IN WITNESS WHEREOF the parties have caused these presents to be executed by their duly authorized officials on the dates set forth below.

ATTEST:

City Center CDD

Title

Title

Date: _____

ATTEST:

CITY OF LAKE ALFRED

Linda Bourgeois, M.M.C.

Nancy Z. Daley, Mayor

Approved to Form and Legality

By: _____
Frederick J. Murphy, Jr.
City Attorney