Animal Control Board
Wednesday, March 4, 2026 at 2:30 PM

City Commission Chambers
214 Sams Avenue, New Smyrna Beach, Florida 32168

1. CALL TO ORDER

A. Roll Call

2. APPROVAL OF MINUTES

2.A Consider the adoption of the minutes from the Animal Control Board meeting held on Thursday, January 29, 2026.

3. OLD BUSINESS

4. NEW BUSINESS

4.A Nomination of a Chair.

4.B Report: Edgewater Animal Control Representative; Roxanne Hicks

4.C Report: Feral Cat Activity

4.D Report: Trap Neuter and Release

4.E Discussion: Ordinance No. 26-00 Animal Control Ordinance update.

5. STAFF REPORTS

6. BOARD MEMBER COMMENTS

7. PUBLIC COMMENTS

8. ADJOURNMENT

Pursuant to Florida Statutes 286.0105, if an individual decides to appeal any decision made by the board, agency or commission of the City of New Smyrna Beach with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's office in person or by mail at 210 Sams Avenue, New Smyrna Beach, Florida 32168, (386) 410-2630, prior to the meeting.

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

CONSIDER THE ADOPTION OF THE MINUTES FROM THE ANIMAL CONTROL BOARD MEETING HELD ON THURSDAY, JANUARY 29, 2026.

March 4, 2026

Background:

The Animal Control Board held a meeting on Thursday, January 29, 2026. The attached minutes are submitted for the board's review and consideration of adoption.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Sharon Taylor-Harding

Attachments:

Animal Control Board Meeting Minutes - January 29, 2026.pdf

Animal Control Board
Thursday, January 29, 2026, at 2:30 PM

MINUTES

1. CALL TO ORDER

Having been duly advertised as required by law, the regular meeting of the Animal Control Board of the City of New Smyrna Beach, Florida, was held on Thursday, January 26, 2026, at the City Commission Chambers, 214 Sams Avenue, New Smyrna Beach, Florida 32168.

Dr. Robert Leonard opened the meeting at 2:30 PM.

Present: Member Jeanette Engel, Member Julie Strickland, and Member Jane Magrady

Excused Absence: Member Dana Hoffman

2. APPROVAL OF MINUTES

3. OLD BUSINESS

4. NEW BUSINESS

4.A Introduction: Animal Control Board Board Duties

Assistant City Attorney Shey McCurdy outlined a PowerPoint presentation.

4.B Introduction: Animal Control Officer Dylan Wulf.

Animal Control Office Dylan Wulf outlined a PowerPoint presentation.

4.C Appeal of Dangerous Dog Determination regarding Baxter a 5 Year old Black and White Pit Bull type dog.

Assistant City Attorney McCurdy outlined the Dangerous Dog Determination hearing and provided background information via a PowerPoint presentation.

City Clerk Taylor-Harding swore in all witnesses and speakers for the Dangerous Dog hearing.

Assistant City Attorney McCurdy opened the quasi-judicial hearing.

Chair Leonard clarified the owner of the dog.

Animal Control Officer Wulf provided a background and the history of the disturbance regarding Baxter.

Randall Hardee, 2700 Star Coral Lane, provided testimony regarding his dog's encounter with Baxter. He commented on walking his dog Penny on January 13, 2026, on a pedestrian trail in New Smyrna Beach.

Tracy Lindsey Goodwin, 451 Pink Coral Lane, provided testimony regarding two incidents with Baxter in June 2025 and January 13, 2026.

Dr. Leonard explained the criteria used to determine if a dog was considered dangerous as defined by Florida State Statutes: 1. Whether the incident occurred on public or private property; 2. Whether the incident was provoked; 3. The nature of the injuries involved. He questioned which parts of the charges were being contested and outlined the process for handling dangerous dogs.

Member Engel explained how to keep a dog deemed dangerous.

Motion:
Member Engel moved to approve the designation of the dog named Baxter as a dangerous dog, based on the evidence and testimony presented. Member Magrady seconded the motion. The motion passed by unanimous vote.

5. STAFF REPORTS

6. BOARD MEMBER COMMENTS

Chair Leonard commented on scheduling an Animal Control Board meeting to review board objectives.

7. PUBLIC COMMENTS

Sharon Hardee, 2700 Star Coal Lane, noted that Penny had missed her ear due to the encounter with Baxter, requested assurance that the dog would not be harmed again, and asked about reimbursement for a $1000 vet bill.

8. ADJOURNMENT

As there was no further business to discuss, Chair Leonard adjourned the meeting at 3:57 PM.

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

NOMINATION OF A CHAIR.

March 4, 2026

Background:

The Animal Control Board will elect a Chair and Vice Chair from among its appointed members to provide leadership, preside over meetings, and carry out duties consistent with Board functions, per New Smyrna Beach Code of Ordinances, Chapter 7, Article III, Section 18-62 - Appointment.

Fiscal Analysis:

None

Strategic Plan Item:

No

Staff Report Created By: Sharon Taylor-Harding

Attachments:

Chapter 18 - Appointment of Chair New Smyrna Beach, FL Code of Ordinances.pdf

(a) *Area.* The entire area embraced within the city is designated as a bird sanctuary. It shall be unlawful for any person to hunt, trap, shoot; attempt to hunt, trap or shoot; molest any bird or wildfowl in any manner; or rob bird nests or wildfowl nests in the city, except on those areas of the city situated west of Glencoe Road having a land use classification or are zoned either agricultural or environmental system corridor.

(b) *Posting.* The city manager is hereby authorized to have proper signs placed on the public highways of the city indicating or showing that the area embraced within the city has been declared as a bird sanctuary. The number, location and size of the signs shall be approved by the city manager.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-6—18-30. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Secs. 18-31—18-60. - Reserved.

DIVISION 2. - ANIMAL CONTROL BOARD

Sec. 18-61. - Composition.

The animal control board shall consist of a licensed veterinarian, a Southeast Volusia Humane Society representative, two animal owners and a citizen from the city who is not an animal owner.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-62. - Appointment.

All members of the animal control board shall be appointed by and serve at the pleasure of the city commission. The chair of the board shall be elected annually from among the appointed members of the board.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-63. - Term.

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

REPORT: EDGEWATER ANIMAL CONTROL REPRESENTATIVE; ROXANNE HICKS

March 4, 2026

Background:

Roxanne Hicks, Edgewater Animal Control Shelter Director will outline a report.

Fiscal Analysis:

None.

Strategic Plan Item:

No

Staff Report Created By: Sharon Taylor-Harding

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

REPORT: FERAL CAT ACTIVITY

March 4, 2026

Background:

Feral cats are free roaming, unsocialized cats that live outdoors and are not dependent on direct human care. The City recognizes Trap Neuter Return (TNR) as a humane and effective management approach, allowing approved feral cats to be sterilized, identified, and returned to their environment rather than impounded.

Fiscal Analysis:

None.

Strategic Plan Item:

No

Staff Report Created By: Sharon Taylor-Harding

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

REPORT: TRAP NEUTER AND RELEASE

March 4, 2026

Background:

Animal Control Officer Wulf is authorized to impound animals running at large, posing a danger, diseased, or neglected, with domestic cats subject to impoundment only under specific nuisance behaviors. Feral cats are exempt from impoundment when they have been trapped, neutered, tagged, and returned through a City Manager approved Trap Neuter Return (TNR) program.

Fiscal Analysis:

None.

Strategic Plan Item:

No

Staff Report Created By: Sharon Taylor-Harding

THE CITY OF NEW SMYRNA BEACH - CITY CLERK'S OFFICE

DISCUSSION: ORDINANCE NO. 26-00 ANIMAL CONTROL ORDINANCE UPDATE.

March 4, 2026

Background:
Updating Code of Ordinances Chapter 18 - Animals.

Fiscal Analysis:
None.

Strategic Plan Item:
No

Staff Report Created By: Sharon Taylor-Harding

Attachments:

Ordinance No. 26-00.pdf
Ordinance No. 07-95 Animals and Fowl.pdf
Chapter 18 - Animals New Smyrna Beach, FL Code of Ordinances.pdf

ORDINANCE NO. 26-00

AN ORDINANCE AMENDING ORDINANCE 7-95, THE NEW SMYRNA BEACH CODE OF ORDINANCES, CHAPTER 7, ANIMALS AND FOWL, BY REPEALING IN ITS ENTIRETY CHAPTER 7, AND ADOPTING AN ENTIRELY NEW CHAPTER 7; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Animal Control Board has recommended that the City of New Smyrna Beach amend the New Smyrna Beach Code of Ordinances, Chapter 7, Animals and Fowl, by repealing in its entirety Chapter 7, and adopting an entirely new Chapter 7; and

WHEREAS, the City Commission feels it is in the best interest of the citizens of the City of New Smyrna Beach to amend the New Smyrna Beach Code of Ordinances, Chapter 7, Animals and Fowl, by repealing in its entirety Chapter 7, and adopting an entirely new Chapter 7, as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: ***Amendment.*** That the New Smyrna Beach Code of Ordinances, Chapter 7, Animals and Fowl, is hereby repealed in its entirety and an entirely new Chapter 7 is adopted to hereinafter read as follows: **(Note: Additions to text are indicated by underline; deletions from text are indicated by ~~strikeout~~; omissions from text are indicated by [...].)**

Chapter 7

ANIMAL CONTROL

ARTICLE I. IN GENERAL

§7-1. Short Title; Liberal Construction.

This Chapter shall be known as the *Animal Control Ordinance* and it is to be liberally construed to carry out the purposes stated in this Chapter.

§7-2. Designation of City as Bird Sanctuary; Signposting.

(1) ***Area.*** The entire area embraced within the City is hereby designated as a bird sanctuary, and it shall be unlawful for any person to hunt, trap, shoot or attempt to hunt, trap or shoot or molest any bird or wildfowl in any manner or rob bird nests or wildfowl nests in the City, except on those areas of the City situated west of Glencoe Road having a land use classification or are zoned either Agricultural or Environmental System Corridor.

(2) ***Posting.*** The City Manager is hereby authorized to have proper signs placed on the public highways of the City indicating or showing that the area embraced within the City has been declared as a bird sanctuary. The number, location and size of the signs shall be approved by the City Manager.

§7-3. Approval of the Appointment of Agents for the Prevention of Cruelty to Animals Pursuant to §828.03, Fla. Stat. (1999).

Agents for the Prevention of Cruelty to Animals shall be approved by the Mayor in accordance with §828.03, Fla. Stat. (1999). The City Clerk shall maintain the records of the appointments of Agents for the Prevention of Cruelty to Animals approved by the Mayor.

§7-4. Definitions.

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Abandon or Abandonment: Means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner as defined by §828.13, Fla. Stat. (1999). *See for state law criminal penalties,* §828.13, Fla. Stat. (1999); *also see, for animal abandoned at either a veterinarian or kennel* §705.19, Fla. Stat. (1999).

Animal: Means pets and other domesticated animals and shall include those animals that are naturally tame and gentle or that,

by long association with man, have become fairly domesticated and reduced to such a state of subjection to man's will that they no longer possess the disposition or inclination to escape, and shall include those animals which are accustomed to living in and about the habitation of man.

Animal at Large: Any animal unattended by its owner or off the premises of the owner or custodian and not under actual physical restraint or secured by means of a fence, chain, leash, lead, kennel or other means of confinement. Any dog under voice command shall not be considered at large if the owner by voice command can command the animal to stop, sit, lie down, come to the owner and to stop barking, growling or making similar noises.

Animal Exposed to Rabies: Any animal which has been bitten by or has been in contact with any other animal determined by the county health officer or the animal control officer to either be infected with rabies or suspected of being infected with rabies.

Animals of Utility: Animals which are customarily kept and maintained for utility rather than as pets, and shall include horses, cattle, chickens and other poultry, swine, goats, sheep and bees.

Animal Control Officer: Means any person employed or appointed by the City who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided by Florida Law. An Animal Control Officer is not authorized to bear arms or make arrests; however, such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association. §828.27(1)(b), Fla. Stat. (1999).

Animal under Restraint: An animal secured by a leash or lead, under physical restraint, under restraint of a mechanical device such as a cage, or an animal that is confined within the real property or vehicle of its owner. Any dog under voice command shall not be considered at large if the owner by voice command can

command the animal to stop, sit, lie down, come to the owner and to stop barking growling or making similar noises.

Certificate: Shall mean a certificate issued by a licensed veterinarian showing that the animal has been currently vaccinated.

Citation: Means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. §828.27, Fla. Stat. (1999).

Dangerous Animal: Any animal, other than a dog, that according to animal control records or investigation has aggressively bitten, attacked, endangered, or has inflicted severe injury on a human being on public or private property. Or any animal that has, more than once, attacked or severely injured or killed any animal.

Dangerous Dog: Means any dog that according to the records of the City: has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property; has more than once severely injured or killed a domestic animal while off the owner's property; has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; 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 City. *See,* §767.11, Fla. Stat. (1999).

Exotic Animals: Means any indigenous or non-indigenous animal that would be commonly considered "wild or harmful" by the general public, and by its nature is venomous or carnivorous and if at large, would be a threat to humans or small mammal life. Exotic animals shall also include any animal defined by The Florida Freshwater and Game Commission that is required as part of §372.922 Fla. Stat. (1999) to have a permit or license to possess.

Holding or impounding facility: Shall be the Southeast Volusia Humane Society Shelter and such other facilities as may,

from time to time, be designated as holding or impounding facilities by the City.

Owner: Means any person or legal entity possessing, harboring, maintaining or keeping or having control or custody of an animal or if the animal is owned by a person under the age of eighteen (18), that person's parent or guardian.

Sustenance: Shall be defined as any food or food product, water or other liquid that has been recognized by law to be healthy or drinkable and not to endanger the health or well-being of any animal; and any structure which protects an animal from exposure to the elements including, but not limited to, rain, cold, wind and heat, and in size is a minimum of six (6) inches higher than the animal's height at full stand with head erect, one and one-half (1-1/2) the animal's full body length, and sufficient in width to permit the animal to turn around without restriction.

ARTICLE II. ADMINISTRATION

§7-5. Administration, Implementation and Enforcement of Chapter.

(1) ***Chief of Police.*** The Chief of Police is responsible for enforcing the animal control laws within the City. The Animal Control Officer shall work under the supervision of the Chief of Police.

(2) ***Animal Control Officer.*** The City Manager shall appoint one or more Animal Control Officers pursuant §828.27(1)(b), Fla. Stat. (1999), and once so appointed the Animal Control Officers shall enforce all of the City ordinances and, when authorized by law to do so, all state and federal laws relating to animal control within the City of New Smyrna Beach. No person shall be appointed as an Animal Control Officer who does not meet the requirements of §828.27(1)(b), Fla. Stat. (1999).

(3) ***Animal Impounding Facility.*** The Southeast Volusia Humane Society is the City's designated *animal impounding facility.* The City Manager shall have the authority to use Southeast Volusia Humane Society in the administration, implementation and enforcement of this Chapter and

utilize the services of any employee of the Southeast Volusia Humane Society to assist him in the implementation and enforcement of this Chapter.

§7-6. **Animals to be Impounded.** The Animal Control Officer shall pick up, capture, catch, procure and impound in a holding facility, any animal found on public or private property under the following circumstances:

(1) ***Running at large.*** When any animal is found running at large in violation of the provisions of this Chapter. Licensed domestic cats either wearing metal identification tags or having a microchip identification system readable by a universal scanner found running at large shall not be subject to impoundment, so long as, the cat is not found climbing on cars, trucks, boats or other personal property; defecating in flower beds, gardens or children's sandboxes; or attacking other animals.

(2) ***Wild Cats.*** All feral cats.

(3) ***Vicious Dogs.*** When a dog attacks and causes severe injury to or death of a human as provided in §767.13, Fla. Stat. (1999).

(4) ***Diseased Animals.*** When an animal is infected with or probable cause exists to believe an animal is infected with rabies or with any other contagious or infectious diseases.

§7-7. **Neglected and Mistreated Animals to be Impounded.** Any Police Officer or Animal Cruelty Agent may pick up, capture, catch, procure and impound in a holding facility, any animal found on public or private property that has been neglected or mistreated as provided in §828.073, Fla. Stat. (1999). The Animal Control Officer shall assist any police officer or Animal Cruelty Agent in carrying out their duty of preventing cruelty to animals in the City.

§7-8. **Redemption of Impounded Animals.** The Animal Control Officer shall follow the following procedures for the impoundment and redemption of animals.

(1) ***Owner Notification.*** Where an animal bears an indicia of ownership, the Animal Control Officer shall notify the owner or keeper of the animal by the most expedient means that the animal has been impounded.

(2) ***Holding Period.*** Any impounded animal shall be held and not destroyed for seven (7) days. If the owner fails to claim the animal at the expiration of the aforesaid seven (7) day holding period, the impounded animal shall be deemed abandoned and may be disposed of by the animal impounding facility through either adoption or destruction of the animal. Notwithstanding the foregoing, any impounded animal may be destroyed before the end of the seven (7) day holding period for humane reasons related to relieving needless suffering resulting from injury, sickness or disease as provided in §828.05, Fla. Stat. (1999). The Animal Control Officer may direct that an animal be held by the animal impounding facility for a period in excess of seven (7) days. In the event that an impounded animal is of obvious substantial value (such as a seeing eye dog, a circus animal or a rare Persian cat), the Animal Control Officer shall direct in writing that the animal impounding facility shall not dispose of the animal. An animal of obvious substantial value is an animal which is worth in excess of $3,000. An animal of obvious substantial value may be disposed of only by the written order of the Chief of Police issued to the Animal Control Officer and animal impounding facility. In the event that the Animal Control Officer has directed the animal impounding facility to hold an animal for a period in excess of seven (7) days, the animal impounding facility shall not dispose of the animal.

(3) ***Computation of Holding Time.*** The seven day holding period shall be computed in the following manner: In computing the seven (7) day holding period the day the animal is impounded shall *not* be included in computation of the seven (7) day holding period. Each day thereafter shall be included in the computation of the seven (7) day holding period.

(4) ***Redeeming Impounded Animal.*** Upon presentation of proof of ownership or right of possession, the owner of an

animal shall be entitled to redeem the impounded animal. For an owner to redeem the animal the owner must pay the impoundment fees and the procurement of any and all required vaccinations and tags. No animal that has been impounded pursuant to Chapter 828 of the Florida Statutes shall be returned to the owner until the return of the animal has been authorized in writing by the investigating Law Enforcement Officer, the investigating Animal Cruelty Agent, or the Chief of Police.

§7-9. **Disposition of Unredeemed Animals.** An animal unredeemed after notice and the expiration of the seven (7) day holding period, unless otherwise provided by law, shall become the property of the Southeast Volusia Humane Society and may be destroyed, maintained or disposed of by gift or sale by being placed in the custody of some person found by the Society to be a responsible and suitable owner who will agree to comply with the provisions of this Chapter.

§7-10. **Charges and Fees.** The Southeast Volusia Humane Society is on behalf of the City of New Smyrna Beach authorized to charge and collect fees for the apprehension, impoundment, upkeep and maintenance of any impounded or quarantined animal. The fee charged by the City for apprehension of an animal shall be, in the case of a cat, FIFTEEN DOLLARS ($15.00), in the case of a dog or other animal, THIRTY-THREE DOLLARS ($33.00) and in addition to the aforesaid fees a TEN-DOLLAR ($10.00) *additional fee* shall be charged in the event that the apprehended animal is unlicensed. The Southeast Volusia Humane Society, in addition to the aforesaid City apprehension fee, shall be authorized to charge reasonable fees for the care and maintenance of an apprehended animal until the animal has been redeemed by its owner.

ARTICLE III. ANIMAL CONTROL BOARD

The composition, appointment and term of members of the City of New Smyrna Beach Animal Control Board shall be as follows:

§7-11. **Composition.**

The Animal Control Board shall consist of a licensed veterinarian, a Southeast Volusia Humane Society representative, two

animal owners and a citizen from the City of New Smyrna Beach who is not an animal owner.

§7-12. Appointment.

All members of the Animal Control Board shall be appointed by and serve at the pleasure of the City Commission. The Chairman of the Board shall be elected annually from among the appointed members of the Board.

§7-13. Term.

Terms of the Animal Control Board members shall be for TWO (2) years; however, for the initial appointees, three (3) shall serve ONE-YEAR terms, and the remaining two (2) shall serve TWO-YEAR terms. Members of the Animal Control Board shall be limited to serving only two consecutive terms unless waived by the City Commission.

§7-14. Functions.

The functions of the Animal Control Board shall be as follows:

(1) ***Meetings.*** Meet at least quarterly or more frequently at the call of the Chairman.

(2) ***Oversight.*** Recommend to the City Commission rules and regulations pertaining to any of the following:

(a) Operation of the animal control facilities operated by the Southeast Volusia Humane Society.

(b) Standards and procedures for the control, collection, care, custody or disposal of animals or animals causing a public nuisance.

(c) Standards and procedures for the enforcement and regulation of City ordinances and Florida Statutes.

(3) ***Appeals.*** Hear and determine appeals by any person, firm or corporation aggrieved by the issuance or denial of a

license or permit, or by the classification of their dogs as dangerous by the Animal Control Officer, or by the confiscation of their dogs for destruction pursuant to §767.12, Fla. Stat. (1999).

(4) ***Review of Animal Control Board Decisions.*** All decisions of the Animal Control Board shall be in writing signed by the Chairman and shall be final upon filing of the Board's decision with the City Clerk. Appeal of Animal Control Board decisions shall be to Circuit Court.

ARTICLE IV. LICENSING AND REGISTRATION OF ANIMALS

§7-15. Annual Licensing of Dogs, Cats and Ferrets.

All persons owning, keeping, harboring, controlling or having custody of any dog, cat or ferret over the age of four (4) months shall be required to obtain a City license certificate and metal identification tag for their animal. Every person who maintains a residence in the City of New Smyrna Beach and is the owner of a dog, cat or ferret shall be required to obtain a license certificate and metal identification tag within thirty (30) days of bringing such animal into the City. The owner thereafter shall each year purchase a new license certificate and metal tag for their animal on the date of the animal's last rabies vaccination. (Example: if the owner brings an animal into the city on March 1st and the animal's last rabies vaccination was a month before the animal was brought into the City on February 1st, the owner would need to buy a City license by March 31st and the license would expire and need to be renewed on February 1st of the next year.)

§7-16. Manner of Obtaining License Certificate and Tag; Fee.

(1) ***Issuance of license certificate and tag.*** Upon submitting proof of rabies vaccination, the license certificate and metal tag required by this Article shall be issued by any licensed veterinarian (who agrees to collect the fee for the license certificate and tag), or by the Southeast Volusia Humane Society, or by the City of New Smyrna Beach.

(2) ***Fee.*** The annual fee for a license certificate and metal tag shall be FIVE DOLLARS ($5.00) for each altered male

or spayed female animal and TWELVE DOLLARS ($12.00) for each unaltered male or unspayed female animal. Such fee shall be paid at the time of issuance of the license certificate and metal tag.

(3) ***Rabies Vaccinations.*** Only a licensed veterinarian may administer rabies vaccination.

§7-17. Replacement or Duplication of City License Metal Tag.

Lost, stolen or misplaced animal control metal tag licenses from the City of New Smyrna Beach may be replaced upon presenting proof of purchase of said tag to the issuing agent and payment of the replacement fee of TWO DOLLARS ($2.00) per tag. Any agent issuing a replacement or duplicate license metal tag may retain from the fees collected for replacement the sum of ONE DOLLAR ($1.00) per metal tag to cover the cost of administrative service performed on behalf of the City. This fee does not include any cost for the replacement of any rabies certificate tag charged by the issuing agency.

§7-18. Contents of License Certificate.

The license certificate required by this Article shall contain the name, address, and phone number of the owner, and the name, breed, color, age and information stating whether or not the animal is altered, the rabies certificate number, date of rabies vaccination and the rabies certificate issuing agency, and sex of the animal for which the license certificate has been issued.

§7-19. Certification of Vaccination.

Shall be issued in accordance with §828.30(3), Fla. Stat. (1999). A copy of the certificate shall be sent to the Animal Control Officer. The certificate of vaccination shall further certify the effective period of the vaccine administered.

§7-20. Exceptions to Provisions of Article.

(1) ***Exemptions for transient animals.*** The licensing requirements of this Article shall not apply to the following:

(a) Dogs, cats or other animals brought into the City for the purpose of exhibiting in any show;

(b) Handicap aid dogs properly trained to assist blind persons when the dogs are actually used by such persons to assist and aid them in going from place to place;

(c) Any dog, cat or other animal of any age until such animal has been in the City for a period of thirty (30) days.

(2) ***Exemptions for newborn animals.*** The vaccination requirements of this Article shall not apply to any animal until it has reached the age of four (4) months. *See,* §828.30(1), Fla. Stat. (1999).

§7-21. Exotic Animals.

(1) ***Registration.*** All exotic animals shall be registered with the City. Such registration shall include the name, address and phone number of the keeper of the animal, a description of the breed, coloring and other identifying characteristics, age, and permit number issued by the State of Florida pursuant to §372.922, Fla. Stat. (1999), if applicable. If the location on the registration of where the animal is being kept is changed, the Animal Control Division must be notified in writing within fourteen (14) days of the new location.

(2) ***Containment.*** All exotic animals are required to be housed in secure buildings and are not permitted unattended in open runs and must be under direct control at all times of a competent handler at least eighteen (18) years of age.

(3) ***Disaster Plan.*** Keepers of exotic animals must register a written Hurricane and Disaster Plan for each such animal with the Animal Control Division.

(4) ***Warning Sign.*** Any person, entity or business selling exotic animals in the City of New Smyrna Beach is

required to post a sign no less than 24" x 36" in a prominent location containing substantially this wording:

Any person possessing an exotic animal in the City of New Smyrna Beach for personal use is required to register the animal with the City and is required to register a written Hurricane and Disaster Plan with the City.

The seller is also required to provide a copy of this section of this ordinance to the purchaser and obtain a signed receipt acknowledging the purchaser's understanding of the ordinance. The seller shall submit fully completed registration applications to the City of New Smyrna Beach upon the sale of any exotic animal.

ARTICLE V. ANIMAL HEALTH REQUIREMENTS

§7-22. Vaccination Required.

All persons who own, harbor, keep or maintain any dog, cat, ferret or other animal that might carry or transmit rabies, shall cause such animal to be vaccinated against rabies by a veterinarian licensed to practice in this state or by any other person designated by the Animal Control Officer as being qualified to administer such vaccine as required by Florida Law. §828.30, Fla. Stat. (1999).

§7-23. Copy of License Certificate and Fees to Be Furnished to Finance Department; Certificate and Tag Numbers to Correspond.

Upon issuance of a license certificate and metal tag and receipt of the license fee, the issuing agent shall forward a copy of the license certificate and the fee to the City of New Smyrna Beach Finance Department. Any non-municipal issuing agent (a licensed veterinarian or the Southeast Volusia Humane Society) may retain from the fees collected TWO DOLLARS ($2.00) per license certificate to cover the costs of the administrative service performed on behalf of the City. The number of the license

certificate shall correspond to the metal tag required by this Article.

§7-24. Report of Animals Suspected of Having Rabies; Animal Bites.

When any animal might carry or transmit rabies, or is suspected of having rabies, or is known to have associated with any other animal that has or is suspected of having rabies, it shall be the duty of any person having such knowledge to report it as promptly as possible to the county health officer, the Animal Control Officer, and it shall be the duty of any person bitten or scratched by any animal other than his or her own animal to report such bite or scratch as soon as possible to the county health officer and the Animal Control Officer.

§7-25. Duty of Animal Control Officer upon Receipt of Report of Animal Suspected of Being Rabid; Disposition of Animals.

The Animal Control Officer, after being notified of any animal described in §7-24, shall enforce the applicable Florida Statutes and the applicable rules of the Florida Department of Health. In addition thereto, the following procedure shall be followed:

(1) ***Quarantine.*** When the Animal Control Officer is so informed of any domestic animal that shows symptoms of having rabies or has bitten or scratched a person or is suspected of having any other infectious or contagious disease, he or she shall capture the animal, if alive, if possible, and quarantine it at a holding facility for observation for a period of at least ten (10) days from the date of the bite or scratch or the showing of any symptom of rabies or any other infectious or contagious disease. If the owner of any such animal requests and pays the bill in advance, the animal may be quarantined in a licensed veterinarian hospital within the county. Upon expiration of the ten (10) day period and upon presentation of proof of ownership or right of possession, the owner of a quarantined animal shall be entitled to redeem the animal.

(2) ***Wild Animals.*** If any wild, lost or abandoned animal is impounded by reason of the fact that it has scratched or

bitten a person or is suspected of having rabies or any other infectious or contagious disease, the animal may be destroyed by the Southeast Volusia Humane Society and its head submitted to the Health Department for pathological examination.

(3) ***Quarantined Animal Dies.*** If a quarantined animal dies, the head of the animal shall be submitted to the Health Department for pathological examination.

(4) ***Cost of Quarantine.*** If any animal that has scratched or bitten a person other than its owner, or that shows symptoms of having rabies or any other contagious or infectious disease, is impounded, the owner shall bear the cost of the care, feeding and maintenance of the quarantined animal until it is either released or destroyed.

§7-26. Quarantine Authorized; Impoundment of Animals in Violation.

In the event rabies is found to exist in any given area within the City to the extent that circumstances indicate the necessity of quarantine of all animals, the Animal Control Officer shall have the authority to prescribe the area of quarantine and to require that all animals that are capable of transmitting rabies, whether vaccinated or not, be confined to the owner's premises and be permitted away from the owner's premises only upon leash, lead or other mechanical restraint. If any animal already ordered held under quarantine is found to be at large as defined in this ordinance, said animal will be immediately captured and surrendered to the Animal Control Officer and taken to the Southeast Volusia Humane Society, where it will be impounded for the full term of quarantine, plus an additional five (5) days at the owner's or custodian's expense. In addition, the owner or custodian of the animal may be cited by the Animal Control Officer for violation of this Article. Any animal found roaming at large within the quarantined area shall be impounded, and such animal may be released to the owner only upon payment of impounding fees and proof of vaccination within the preceding twelve (12) months.

§7-27. Withholding Animals from Quarantine or Destruction.

It shall be unlawful for any person to withhold any animal from quarantine or destruction when a finding of necessity of quarantine or destruction has been made by the Animal Control Officer.

§7-28. Mandatory Sterilization

§823.15, Fla. Stat. (1999), requires any person purchasing a cat or dog sold or released for adoption from any public or private animal shelter or animal control agency operated by a humane society to be sterilized within thirty (30) days of its adoption or prior to sexual maturity. Violation of this policy may result in the forfeiture of the animal, any deposit or refund, plus cause the owner or adopter to be fined for a non-criminal violation as defined by §775.08(3), Fla. Stat. (1999).

§7-29. Sterilization Rebate.

The City recognizes the need for voluntary sterilization of animals; therefore, to reduce unwanted and accidental breeding of animals, the City has established a sterilization rebate program. This program is of a voluntary nature except where required by law and is recommended by the City to all animal owners. The City also recognizes the cost of sterilization may vary from animal to animal and therefore has established a maximum rebate allowance of not more than fifty percent (50%) of the initial cost of sterilization per animal with a maximum rebate allowance of FIFTY DOLLARS ($50.00) per animal. This rebate applies to the sterilization procedure only, and excludes the cost of rabies vaccination, medicine or other costs that may be incurred by the animal, including the cost of the City of New Smyrna Beach animal control permits.

§7-30. Manner of Obtaining Sterilization Rebate.

To qualify for the sterilization rebate from the City, the owner or custodian of each animal sterilized must be a resident of the corporate limits of the City of New Smyrna Beach and submit to the Animal Control Officer within thirty (30) days of the sterilization, a completed City of New Smyrna Beach Rebate Application for Sterilization form, which form may be obtained from any local

veterinarian or from City Hall. The form must contain the owner's name, address, telephone number and date of the animal's sterilization, the breed of the animal, its name, sex, rabies certificate number, City tag number, cost of sterilization, name of the veterinarian, and signature of the veterinarian and the applicant.

§7-31. Reduced Sterilization Rebate.

Any owner who presents a sterilization rebate application that has been authorized through any discount agreement with a non-profit organization such as Friends of Pets, the Humane Society or other recognized non-profit organization, may be eligible to receive a maximum rebate of no greater than up to twenty-five percent (25%) of the original cost of the sterilization only, exclusive of rabies vaccination or other medications.

§7-32. Dead Animal Removal By Owner.

If an animal dies on public or private property, it shall be the responsibility of the owner of said animal or the owner of the property to remove and dispose of the dead animal immediately. Should the owner not be aware of said dead animal's presence, the following procedures shall be followed:

(1) When any dead animal is found on public property, the owner of the dead animal shall remove and dispose of the dead animal upon notification by the Animal Control Officer or other law enforcement officer.

(2) When any dead animal is found on private property, the owner of the dead animal or owner of the property shall immediately remove and dispose of the dead animal upon notification by the Animal Control Officer or other law enforcement officer.

ARTICLE VI. OFFENSES

§7-33. Keeping Animals in Unsanitary, Offensive Manner.

It shall be unlawful for any owner of any animal to keep or maintain such animal in unsanitary conditions or surroundings.

§7-34. Animal Waste.

It shall be unlawful for any owner of any animal to allow its animal to defecate on a public walk, recreational area, or on other than his or her own property, without immediately cleaning up after its animal and properly disposing of the animal feces.

The owner of any animal shall keep his or her own property free of animal feces to the extent that is necessary to prevent noxious or offensive odors from escaping onto neighboring lands or public right-of-ways.

§7-35. Failure to Obtain a License.

It shall be unlawful for any person who owns, keeps, maintains or harbors any dog, cat or ferret to fail to obtain license certificate or a current certificate of vaccination as required by this Chapter.

§7-36. Failure of Animal to Wear Metal tag.

It shall be unlawful for an owner of an animal required to be licensed under this Chapter to fail to have its animal wear at all times the metal identification tag required by this Chapter. Domestic cats are exempt from this provision if the cat has an imbedded microchip identification system readable by a universal scanner.

§7-37. Nuisance Animals.

It shall be unlawful for any person to sell, keep, harbor or maintain any animal under the following circumstances:

(1) ***Noise.*** Any animal that unprovoked disturbs the peace and quiet of a neighboring resident by repeatedly barking, howling, crying, screaming, whining or making other bothersome noises for a period in excess of ten minutes. Any animal that is provoked to make disturbing noises by causes not reasonably within control of the owner shall not be in violation of this provision.

(2) ***Chasing Cars or People.*** Any animal that chases persons, automobiles, other vehicles, livestock, or other domestic

animals. Any animal that is provoked into chase by causes not reasonably within control of the owner shall not be in violation of this provision.

(3) ***Damage Property.*** Any animal that destroys or damages public or private property.

(4) ***Running at large.*** Any animal found running at large, except and specifically excluding properly licensed domestic cats wearing metal identification tags or having a microchip identification system readable by a universal scanner.

(5) ***Cats.*** Any cat found climbing on cars, trucks, boats or other personal property; found defecating in flower beds, gardens or children's sandboxes; or found attacking other animals.

(6) ***Dog Packs.*** Any dog found running in a pack of three (3) or more dogs.

§7-38. Keeping Bees Prohibited. It shall be unlawful for any person to maintain or keep bees within the corporate limits of the City. This section shall have no application to those properties and zones that have been classified or zoned either Agriculture or Environmental System Corridor that is situated west of Glencoe Road. However, it shall not be a violation of this section to transport bees through the City.

§7-39. Abandoning Animals Prohibited.

It shall be unlawful for any person to abandon any animal within the corporate limits of the City.

§7-40. Keeping Utility Animals Within the City Prohibited; Exceptions.

It shall be unlawful for any person to keep or maintain any poultry, cattle, horses, swine, including pot belly pigs, or other animal or fowl that is used primarily for utility purposes. This section shall have no application to those properties and zones that have been zoned either Agricultural or Environmental System Corridor that are situated west of Glencoe Road. This section

shall have no application to persons maintaining such animals within the City prior to June 27, 1972, or to any duly-licensed business for the sale of poultry or livestock.

Notwithstanding provisions in this ordinance to the contrary, any person owning pot belly pigs on May 9, 2000, may continue to keep pot belly pigs on the property he or she either rents or owns subject to the conditions that he or she registers with the City's Animal Control Officer as an owner of pot belly pigs on or before December 1, 2000, and that he or she does not increase the number of pot belly pigs on the property he or she rents or owns. This right to continue to possess pot belly pigs within the City of New Smyrna Beach is a personal right granted in recognition of the love and affection that develops between man and these animals and is not transferable in anyway whatsoever.

§7-41. Animals Transported in Vehicles.

It shall be unlawful to transport any animal unsecured in an open vehicle. Any animal transported in a vehicle shall either be within a cage, crate or pen which is well-ventilated and secured within the body of the vehicle or restrained by tether affixed to the center of the vehicle and attached to a collar or harness of the animal so as to prevent the animal from escaping or causing injury to itself or any person. The tether shall be short enough to prevent the animal's head from reaching the sides or back of the vehicle. The purpose of this provision is to prevent cruelty to animals resulting from animals falling out of pickup trucks and other vehicles and being injured. Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designated and constructed for such purpose.

§7-42. Enticing Animals.

It shall be unlawful for any person to entice or lure an animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease an animal which is held or properly confined by its owner or keeper.

§7-43. Hiding and Concealing Animals of Others.

It shall be unlawful for any person to hide or conceal any animal to which he does not have legal ownership.

§7-44. Duty of Persons Striking Animals with Vehicle.

It shall be unlawful for any person who shall knowingly strike an animal within the City belonging to another or a wild animal with a vehicle to fail to immediately report the injury of the animal to the Police or the Southeast Volusia Humane Society.

ARTICLE VII. DANGEROUS DOG DETERMINATION

§7-45. Investigation By Animal Control Officer.

The Animal Control Officer is hereby authorized to investigate and determine whether a dog should be classified as a dangerous dog within the meaning of §767.12, Fla. Stat. (1999), or confiscated for destruction pursuant to §767.13(3), Fla. Stat. (1999).

§7-46. Appeal.

The owner has the right to appeal the classification of a dog as a dangerous dog, or confiscation of his or her animal for destruction pursuant to §767.13(3), Fla. Stat. (1999), to the Animal Control Board. Said right of appeal may be exercised by the owner within TEN (10) days from the date the dog is classified as dangerous by filing with the Office of the City Clerk, 210 Sams Avenue, New Smyrna Beach, Florida 32168, a written notification of the owner's intent to appeal. It is the responsibility of the owner to keep the dog in a manner consistent with that of a dangerous dog during any appeal process pursuant to Chapter 767 of the Florida Statutes. The cost incurred for the safekeeping of the dog during the appeal process shall be the responsibility of the owner.

§7-47. Hearing.

The hearing shall be held in accordance with the provisions of Chapter 767 of the Florida Statutes. Notice of the hearing to the owner shall be in accordance with the notice provisions of Chapter 767 of the Florida Statutes. The hearing shall be conducted in a

manner that insures that the owner shall be afforded an opportunity to be heard, an opportunity to present evidence, an opportunity to present witnesses, an opportunity to cross-examine witnesses, and to be informed of all the facts upon which the Commission's decision is based. The owner shall have the right, at his or her own expense, to be represented by an attorney at the hearing. *Ex parte* communications with the members of the Animal Control Board shall be prohibited.

The Animal Control Board's decision shall be in writing signed by the Chairman and shall be final upon filing of the Board's decision with the City Clerk. Appeal of Animal Control Board decisions shall be to Circuit Court.

ARTICLE IV. PENALTIES FOR VIOLATION

§7-48. Civil Penalty.

Any violation of this Chapter constitutes a civil infraction. The maximum civil penalty for any such infraction shall not exceed FIVE HUNDRED DOLLARS ($500.00). A FIFTY DOLLAR ($50.00) civil penalty shall be imposed in the event that the person who has committed an infraction under this Chapter does not wish to contest the citation. In addition to the aforesaid fines, a surcharge of FIVE DOLLARS ($5.00) is imposed upon each civil penalty imposed for violation of any Chapter relating to animal control or cruelty. The proceeds from said surcharges shall be used to pay the costs of training for animal control officers. No citation shall be issued under this Chapter unless the officer who issues the citation has probable cause to believe the person has committed an act in violation of Chapter 7 of the New Smyrna Beach Code of Ordinances. Citations issued under this Ordinance shall be contestable in County Court. *See*, §828.27, Fla. Stat. (1999).

§7-49. Mandatory Court Appearances.

A mandatory court appearance is required for violations of this Chapter resulting in the unprovoked biting, attacking, or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of local animal cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person. The citation must clearly inform the person of the mandatory court

appearance. The Animal Control Officer shall maintain records to prove the number of citations issued to the person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court. *See*, §828.27(6), Fla. Stat. (1999).

§7-50. TWO DOLLAR ($2.00) Surcharge on Civil Violations of this Chapter.

In addition to the aforedescribed civil penalties imposed under this Chapter, violators shall pay an additional surcharge of TWO DOLLARS ($2.00) for violations of this Chapter relating to animal control or cruelty. The proceeds from said surcharge shall be used to pay the costs of a forty (40) hour minimum-standards training course for animal control officers. §828.27(4)(a), Fla. Stat. (1999).

SECTION 2: ***Codification.*** Following adoption of this ordinance, the City Attorney shall transmit a copy of this ordinance to Municipal Code Corporation of Tallahassee, Florida, to be codified into the City's Code of Ordinances. Municipal Code Corporation's usual and customary fee for said codification service is hereby approved.

SECTION 3: ***Publication.*** That ten (10) days prior to adoption, this ordinance shall be noticed once in a newspaper of general circulation in the City of New Smyrna Beach. The notice of the proposed enactment of this ordinance shall state: (1) The title of this ordinance; (2) the date, time and place that the public hearing on this ordinance will be held before the City Commission; and (3) the place or places within the City of New Smyrna Beach where this ordinance may be inspected by the public. Said notice shall also state that the interested parties may appear at the public hearing and be heard with respect to the enactment of this proposed ordinance. §166.041(3)(a), Fla. Stat. (1999). This ordinance shall be adopted in accordance with the provisions of §166.041(3)(a), Fla. Stat. (1999).

SECTION 4: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 5: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 6: ***Effective Date.*** That this ordinance shall take effect immediately upon its final passage.

APPROVED AS TO FORM AND CORRECTNESS:

EDWARD H. BEAZLEY, JR.
City Attorney

DATE: May 12, 2000

CITY OF NEW SMYRNA BEACH

OFFICE OF THE CITY ATTORNEY

MEMORANDUM

May 12, 2000

TO: Mayor James L. Vandergrifft and Honorable Commissioners

FROM: Edward H. Beazley, Jr., City Attorney

RE: Revised Ordinance No. 26-00
Animal Control Ordinance

Please find enclosed the May 12, 2000, version of Ordinance No. 26-00, the Animal Control Ordinance. Miscellaneous corrections were made to typographical and editing errors, and to reflect the City Commission's actions taken at its regular meeting held on May 9, 2000, the following changes have been made:

1. **§7-6, Animals to be Impounded.**

   (1) ***Running at large.*** When any animal is found running at large in violation of the provisions of this Chapter. Licensed domestic cats ***either wearing metal identification tags or having a microchip identification system readable by a universal scanner*** found running at large shall not be subject to impoundment, so long as, the cat is not found climbing on cars, trucks, boats or other personal property; defecating in flower beds, gardens or children's sandboxes; or attacking other animals. (Page 6, Lines 188-190.)

2. **§7-36. Failure of Animal to Wear Metal tag.**

   It shall be unlawful for an owner of an animal required to be licensed under this Chapter to fail to have its animal wear at all times the metal identification tag required by this Chapter. ***Domestic cats are exempt from this provision if the cat has an imbedded microchip identification system readable by a universal scanner.*** (Page 18, Lines 617-619.)

3. **§7-37. Nuisance Animals.**

It shall be unlawful for any person to sell, keep, harbor or maintain any animal under the following circumstances:

...

(4) ***Running at large.*** Any animal found running at large, except and specifically excluding properly licensed domestic cats wearing metal identification tags ***or having a microchip identification system readable by a universal scanner.*** (Page 19 at Lines 640-641.)

...

Please replace the previous version of Ordinance No. 26-00 with the enclosed version.

Should you have any questions, please do not hesitate to contact this office.

EDWARD H. BEAZLEY, JR.

EHB:vmp

Enclosures: Revised Ordinance No. 26-00

cc: Frank O. Roberts, City Manager
John E. Hagood, Assistant City Manager/Acting City Clerk
Richard Witt, Police Chief
Colonel John C. Barck, Animal Control Board
Chris Norman, Animal Control Officer

Ordinance No. 26-00 of the City of New Smyrna Beach, Florida, was introduced before the City Commission at its Regular Meeting on April 24, 2000, and read by title only. Motion was made by Commissioner O'Bannon to approve the Ordinance on first reading, and seconded by Commissioner Bell, the vote thereon being as follows:

MAYOR JAMES L. VANDERGRIFFT	Yes
VICE MAYOR WILLIAM D. ROGERS	Yes
COMMISSIONER JAMES W. HATHAWAY	Yes
COMMISSIONER ORETHA W. BELL	Yes
COMMISSIONER JO ANN O'BANNON	Yes

Ordinance No. 26-00 was read by title only at the Regular Meeting held by the City Commission on May 9, 2000. Motion was made by Vice Mayor Rogers and seconded by Commissioner O'Bannon that Ordinance No. 26-00 be adopted on second and final reading, the vote thereon being as follows:

MAYOR JAMES L. VANDERGRIFFT	Yes
VICE MAYOR WILLIAM D. ROGERS	Yes
COMMISSIONER JAMES W. HATHAWAY	Yes
COMMISSIONER ORETHA W. BELL	Yes
COMMISSIONER JO ANN O'BANNON	Yes

The Acting City Clerk noted the passage of Ordinance No. 26-00 in the minutes of this meeting by its title only and recorded the same in full in the Ordinance Records of the City.

The Mayor of the City of New Smyrna Beach has hereunto set his official signature, duly attested by the Acting City Clerk, and has caused the Official Seal of said City to be hereunto affixed for the purpose of authenticity as required by law.

As Mayor of the City of New Smyrna Beach, Florida

(OFFICIAL SEAL)

As Acting City Clerk of the City of New Smyrna Beach, Florida

ORDINANCE NO. 26-00

THE OBSERVER
NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA 32168

STATE OF FLORIDA,
COUNTY OF VOLUSIA:

Before the undersigned authority personally appeared who on oath says that he/she is.....Publisher..... of The Observer, a daily newspaper published in New Smyrna Beach in Volusia County, Florida: that the attached copy of Advertisement, being a .....Ord. 26-00.....in the matter of .....published in The Observer newspaper in the issues of:

April 26, 20 00 20____

____ 20____ 20____

____ 20____ 20____

____ 20____ 20____

Affiant further says that the said The Observer is a newspaper published in New Smyrna Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, and has been entered as second class mail matter at the post office in New Smyrna Beach, in said Volusia County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Barbara A. Duck

Barbara A. Duck

Pub. Cost. $ 61.75

STATE OF FLORIDA
COUNTY OF VOLUSIA
The foregoing instrument was acknowledged before me this 5th day of May 2000, by who is personally known to me or who has produced N/A as identification and who DID NOT take oath.

Gail A. Kincaid

Gail A. Kincaid
Notary Public, State of Florida
Commission No. CC 645352
My Commission Exp. 05/08/2001
800-3-NOTARY - Fla. Notary Service & Bonding Co.

PROOF OF PUBLICATION

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a second and final reading and a Public Hearing have been scheduled for consideration of Ordinance No. 26-00, for Tuesday, May 9, 2000, at 7:30 p.m., City Commission Chambers in City Hall, 210 Sams Avenue, New Smyrna Beach, Florida, which is entitled:

ORDINANCE NO. 26-00

AN ORDINANCE AMENDING ORDINANCE 7-95, THE NEW SMYRNA BEACH CODE OF ORDINANCES, CHAPTER 7, ANIMALS AND FOWL, BY REPEALING IN ITS ENTIRETY CHAPTER 7, AND ADOPTING AN ENTIRELY NEW CHAPTER 7; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLICATION; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Copies of Ordinance No. 26-00 may be obtained or the ordinance may be read in its entirety in the office of the City Clerk, 210 Sams Avenue, New Smyrna Beach, Telephone (904) 424-2112.

Pursuant to Section 166.041 (3) (a), Fla. Stat. (1999), all interested parties may appear and be heard with respect to the proposed ordinance.

Pursuant to section 286.0105, Fla. Stat. (1999), if any person decides to appeal any decision made by the City Commission with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 210 Sams Avenue, New Smyrna Beach, Telephone (904) 424-2112, not later than seven days prior to the proceeding.

By: Edward H. Beazley, Jr.,
City Attorney

(572) 04/26

ORDINANCE NO. 7-95

AN ORDINANCE RECODIFYING THE NEW SMYRNA BEACH CODE OF ORDINANCES, CHAPTER 7, ANIMALS AND FOWL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Animal Control Officer has requested recodification of the New Smyrna Beach Code of Ordinances, Chapter 7, Animals and Fowl, in order to provide for the correct recodification in the to-be-published City Code of Ordinances, to provide for a correctly-codified ordinance for administration use pending completion of the recodification process, and to provide information to the public regarding the City's animal-control regulations pending the completion of the recodification process; and

WHEREAS, the City Commission feels it is in the best interest of the citizens of the City of New Smyrna Beach to amend the New Smyrna Beach Code of Ordinances as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:

SECTION 1: That the New Smyrna Beach Code of Ordinances, Chapter 7, Animals and Fowl, is hereby amended to read as follows:

Chapter 7

ANIMALS AND FOWL

ARTICLE I. IN GENERAL

§7-1. Short title; liberal construction.

This chapter shall be known as the Animal and Fowl Control Ordinance and it is to be liberally construed to carry out the purposes stated in this chapter.

§7-2. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

Animals: Includes but is not limited to, dogs, cats, horses, birds, including poultry, rabbits, squirrels,

raccoons, monkeys, ducks, geese, goats, sheep, swine and cattle. The term also includes pets and domesticated animals and shall include those animals that are naturally tame and gentle or that, by long association with man, have become fairly domesticated and reduced to such a state of subjection to man's will that they no longer possess the disposition or inclination to escape, and shall include those animals which are accustomed to living in and about the habitation of man. Fowl, fish, reptiles and bees shall be included in the definition of animals.

Animal at large: Any animal not under restraint.

Animal exposed to rabies: Any animal which has been bitten by or has been in contact with any other animal determined by the county health officer or the animal control officer to either be infected with rabies or suspected of being infected with rabies.

Animals of utility: Animals which are customarily kept and maintained for utility rather than as pets, and shall include horses, cattle, chickens and other poultry, swine, goats, sheep and bees.

Animal control officer: The Chief of Police is designated as the animal control officer and shall be the official primarily responsible for the enforcement of the provisions of this chapter. The Chief of Police and such other subordinate animal control officers as he may appoint from time to time, shall enforce the provisions of this chapter.

Animals that constitute a public nuisance: The following animals shall constitute a public nuisance:

(1) An animal that is found at large, except li-

censed cats;

(2) An animal that damages the property of anyone other than its owner;

(3) An animal that has bitten a person without provocation;

(4) An animal that repeatedly attacks another animal without provocation;

(5) An animal that habitually and excessively howls, barks or growls, or makes other noises so as to unduly disturb or disrupt the public peace, order and tranquility, and causes undue inconvenience and annoyance to owners of neighboring property and persons in close proximity thereto;

(6) An animal that molests passersby or passing vehicles;

(7) An animal that has been designated by the county health officer or the animal control officer to be a public-nuisance animal by virtue of being a menace to the public health, welfare or safety;

(8) An animal that is found on the beach or is found swimming or playing in the Atlantic Ocean, except as provided otherwise in this chapter;

(9) An animal that is not *under restraint* as defined in §7-2.

Animal under restraint: An animal secured by a leash or lead, under physical restraint, under restraint of a mechanical device such as a cage, or an animal that is confined within the real property or vehicle of its owner. A dog shall be considered under restraint when it is under the physical restraint of a lead or leash, held by some person, or when it is under voice command of its

owner or some member of ~~the~~ its owner's family.

Holding or impounding facility: The Southeast Volusia Humane Society Shelter and such other facilities as may, from time to time, be designated as holding or impounding facilities by the animal control officer.

Owner: Any person owning, keeping, maintaining, harboring or acting as the custodian of any animal.

§7-3. Administration, implementation and enforcement of chapter.

(a) The chief of police is hereby designated as the chief animal control officer and to be responsible for the enforcement of the provisions of this chapter.

(b) The animal control officer is hereby authorized to use and utilize the services of the Southeast Volusia Humane Society in the administration, implementation and enforcement of this chapter.

(c) The animal control officer shall have the authority to designate any employee of the Southeast Volusia Humane Society to assist him in the implementation and enforcement of this chapter and shall have the power to vest such employee with all the powers of special police officers that are necessary to effectively administer and enforce this chapter, upon the condition that the governing board of the Southeast Volusia Humane Society agrees to assist the City in the administration and enforcement of this chapter.

(d) The City Commission is authorized to

appropriate for the administration and enforcement of this chapter such sums of money and the use of such municipal property as in the judgment of the City Commission shall be necessary and proper.

§7-4. Strict enforcement; impoundment powers of animal control officer.

It is declared to be in the best interest of the public health, safety and welfare that the provisions of this chapter be strictly enforced. The animal control officer or his or her duly-designated subordinate officers shall have the power to pick up, capture, catch, procure and impound in a holding facility, any animal found on public or private property under the following conditions:

(1) When any animal is a public nuisance as defined by this chapter;

(2) When any animal is infected with or believed to be infected with rabies or with any other contagious or infectious disease;

(3) When any female animal at large is in heat;

(4) When any animal has been or is being mistreated;

(5) When any animal appears to be lost or abandoned;

(6) When any dogs appear to be running in a pack, a pack being defined as three (3) or more dogs;

(7) When any animal required to be licensed appears to be unlicensed.

§7-5. Redemption of impounded animals.

(a) Whenever the owner of an impounded animal can be determined, the animal control officer, his or her subordinate, or the Southeast Volusia Humane Society shall notify the owner that the animal has been impounded.

(b) An impounded animal shall only be required to be confined for a period of three (3) days from the date it is received at the Southeast Volusia Humane Society. In the event that at the expiration of the three (3) day period no owner has claimed the animal, the animal shall then be deemed unowned or abandoned and shall be disposed of in accordance with §7-6 of this chapter and the rules and regulations of the Southeast Volusia Humane Society. The animal control officer may authorize that an animal be held for a period in excess of three (3) days. In the event that the animal control officer has directed the Humane Society to hold an animal for a period in excess of three (3) days, the Southeast Volusia Humane Society shall not dispose of the animal in accordance with these rules until the hold imposed by the animal control officer has expired.

(c) The redemption of any animal shall be based upon such reasonable rules and regulations as are adopted from time to time by the Southeast Volusia Humane Society and approved by the City Commission. Said rules

and regulations shall be supplemental to and shall not be inconsistent with the New Smyrna Beach Code of Ordinances.

(d) The final day of the impoundment period shall occur only on a day in which the impounding or holding facility is open for normal operating activities.

(e) Upon presentation of proof of ownership or right of possession, the owner of an animal shall be entitled to the impounded animal after all rules and regulations of the Southeast Volusia Humane Society have been complied with, including the payment of impoundment fees and the procurement of any needed vaccinations and tags. However, in the event that any animal has been impounded due to cruelty, mistreatment or public nuisance, the owner shall only be entitled to redemption of the animal after the animal control officer authorizes the redemption.

§7-6. Disposition of unredeemed animals.

An animal unredeemed shall become the property of the Southeast Volusia Humane Society and may be destroyed, maintained or disposed of by gift or sale by being placed in the custody of some person found by the Society to be a responsible and suitable owner who will agree to comply with the provisions of this chapter.

§7-7. Charges and fees.

The Southeast Volusia Humane Society is

on behalf of the City of New Smyrna Beach authorized to charge and collect fees for the apprehension, impoundment, upkeep and maintenance of any impounded or quarantined animal. The fee charged by the City for apprehension of an animal shall be, in the case of a cat, FIFTEEN DOLLARS ($15.00), in the case of a dog or other animal, THIRTY-THREE DOLLARS ($33.00) and in addition to the aforesaid fees a TEN-DOLLAR ($10.00) *additional fee* shall be charged in the event that the apprehended animal is unlicensed. The Southeast Volusia Humane Society, in addition to the aforesaid City apprehension fee, shall be authorized to charge reasonable fees for the care and maintenance of an apprehended animal until the animal has been redeemed by its owner.

§7-8. Right of private persons to apprehend animals.

Any person finding any animal or fowl upon his property that is injured or is an annoyance shall report the same to the owner of the animal, if the owner is known. If the owner is unknown, or if the owner, after notification, refuses or neglects to remove the animal, such person shall have the right to apprehend the animal and cause it to be impounded.

§7-9. Nuisance complaints; investigation; abatement; failure to abate.

Any person shall have the right, by

written and signed complaint, to notify the animal control officer of any animal considered by such person to be a nuisance, and, upon receipt of such notification, the animal control officer or his duly-designated subordinate shall cause an investigation to be made. If the owner refuses or neglects to abate the nuisance within one (1) day after written notification delivered to him by any member of the police department, such animal shall be impounded.

§7.10. Keeping, harboring nuisance animals prohibited.

It shall be unlawful for any person to sell, keep, harbor or maintain any animal in a manner that violates the provisions of §386.041, §585.15, or §823.04, Fla. Stat. (1993).

§7-11. Keeping animals in unsanitary, offensive manner.

It shall be unlawful for any owner of any animal to keep or maintain such animal in unsanitary conditions or surroundings.

The owner of any animal shall be responsible for the removal of any excretion deposited by his animal(s) on a public walk, recreational area, or on property other than his own.

The owner of any animal shall keep his own property free of animal excrement to the extent that is necessary to prevent noxious or

offensive odors from escaping onto neighboring lands or public right-of-ways.

If an animal dies on public or private property, it shall be the responsibility of the owner of said animal or the owner of the property to remove and dispose of the dead animal immediately. Should the owner not be aware of said dead animal's presence, the following procedures shall be followed:

(1) When any dead animal is found on public property, the owner of the dead animal shall remove and dispose of the dead animal upon notification by the animal control officer or other law-enforcement officer.

(2) When any dead animal is found on private property, the owner of the dead animal or owner of the property shall immediately remove and dispose of the dead animal upon notification by the animal control officer or other law-enforcement officer.

§7-12. Keeping bees prohibited.

It shall be unlawful for any person to maintain or keep bees within the corporate limits of the City; provided, however, it shall not be a violation of this section to transport bees through the City.

§7-13. Abandoning animals prohibited.

It shall be unlawful for any person to abandon any animal within the corporate limits of the City.

§7-14. Keeping utility animals within

the City prohibited; exceptions.

It shall be unlawful for any person to keep or maintain any poultry, cattle, horses, swine or other animal or fowl that is used primarily for utility purposes. This section shall have no application to persons maintaining such animals within the City prior to June 27, 1972, or to any duly-licensed business for the sale of poultry or livestock.

§7-15. Cruelty to animals.

It shall be unlawful for any person to overdrive, overload, overwork, deprive of necessary sustenance, torture, torment or cruelly beat or mutilate any animal.

§7-16. Hiding and concealing animals of others.

It shall be unlawful for any person to hide or conceal any animal to which he does not have legal ownership.

§7-17. Poisoning animals.

It shall be unlawful for any person to knowingly poison, aid, abet or assist in the poisoning of any animal or knowingly put out or place poison where any animal may feed on the poison.

§7-18. Failure to render aid to sick or injured animals.

It shall be unlawful for any person to knowingly deny treatment or medical aid to any sick or injured animal owned by him.

§7-19. Duty of persons striking animals with

vehicle.

Any person who shall knowingly strike an animal belonging to another or a wild animal with a vehicle shall immediately report the injury to the animal to the Police or the Southeast Volusia Humane Society.

§7-20. Interfering with enforcement of chapter.

It shall be unlawful for any person to interfere with, hinder, resist, obstruct or molest the animal control officer or any Southeast Volusia Humane Society personnel in the performance of his duties as set forth in this chapter.

§7-21. Unlawful removal of animals from custody of animal control officer or Southeast Volusia Humane Society.

It shall be unlawful for any person without proper authority to release or remove or attempt to release or remove any animal from the custody of the animal control officer or from any Southeast Volusia Humane Society personnel who is acting within the scope of his authority as set forth in this chapter.

§7-22. Destruction, defacing of holding facilities.

It shall be unlawful for any person to tear down, burn, deface, destroy or attempt to destroy or injure any impounding or holding facility within the City.

§7-23. Dogs running at large.

It shall be unlawful for any owner of a dog to allow the dog to run at large.

§7-24. Designation of City as bird sanctuary; signposting.

(a) The entire area embraced within the City is hereby designated as a bird sanctuary, and it shall be unlawful for any person to hunt, trap, shoot or attempt to hunt, trap or shoot or molest any bird or wildfowl in any manner or rob bird nests or wildfowl nests in the City, except where necessary to protect property.

(b) The City Manager is hereby authorized to have proper signs placed on the public highways of the City indicating or showing that the area embraced within the City has been declared as a bird sanctuary. The number, location and size of the signs shall be approved by the City Manager.

§7-25. Killing, molesting squirrels.

It shall be unlawful for any person to willfully kill, wound, or attempt to kill, capture or molest, within the City limits, any squirrel.

ARTICLE II. RABIES CONTROL

§7-26. Report of animals suspected of having rabies; animal bites.

When any animal might carry or transmit rabies, or is suspected of having rabies, or is known to have associated with any other animal that has or is suspected of having

rabies, it shall be the duty of any person having such knowledge to report it as promptly as possible to the county health officer, the animal control officer or the office of the Southeast Volusia Humane Society, and it shall be the duty of any person bitten or scratched by any animal other than his own animal to report such bite or scratch as soon as possible to the county health officer, the animal control officer or the office of the Southeast Volusia Humane Society.

§7-27. Duty of animal control officer upon receipt of report of animal suspected of being rabid; disposition of animals.

The animal control officer, after being notified of any animal described in §7-27, shall enforce the applicable Florida Statutes and the applicable rules of the division of health of the department of health and rehabilitative services. In addition thereto, the following procedure shall be followed:

(1) When the animal control officer is so informed of any animal that shows symptoms of having rabies or has bitten or scratched a person or is suspected of having any other infectious or contagious disease, he shall capture the animal, if alive, if possible, and quarantine it at a holding facility for observation for a period of at least ten (10) days from the date of the bite or scratch or the showing of any symptom of rabies or any other

infectious or contagious disease. If the owner of any such animal requests and pays the bill in advance, the animal may be quarantined in a licensed veterinarian hospital within the county. Upon expiration of the ten (10) days period and upon presentation of proof of ownership or right of possession, the owner of a quarantined animal shall be entitled to redeem the animal after all rules and regulations of the Southeast Volusia Humane Society have been complied with, including the payment of fees for upkeep and maintenance of any quarantined animal and the procurement of any needed vaccinations and tags. Upon expiration of the ten (10) day period, the required period of confinement shall be five (5) additional days in accordance with §7-5 of the New Smyrna Beach Code of Ordinances.

(2) If any wild, lost or abandoned animal is impounded by reason of the fact that it has scratched or bitten a person or is suspected of having rabies or any other infectious or contagious disease, the animal may be destroyed by the Southeast Volusia Humane Society and its head sent to the state division of health laboratory for pathological examination.

(3) If a quarantined animal dies, the head of the animal shall be forwarded to one of the state division of health laboratories for pathological examination.

(4) If any animal that has scratched or bitten a person, other than its owner, or that shows symptoms of having rabies or any other contagious or infectious disease, is impounded, the owner shall bear the cost of the care, feeding and maintenance of the quarantined animal until it is either released or destroyed.

§7-28. Quarantine authorized; impoundment of animals in violation.

In the event rabies is found to exist in any given area within the City to the extent that circumstances indicate the necessity of quarantine of all animals, the animal control officer shall have the authority to prescribe the area of quarantine and to require that all animals that are capable of transmitting rabies, whether vaccinated or not, be confined to the owner's premises and be permitted away from the owner's premises only upon leash, lead or other mechanical restraint. Any animal found roaming at large within the quarantined area shall be impounded, and such animal may be released to the owner only upon payment of impounding fees and proof of vaccination within the preceding twelve (12) months.

§7-29. Withholding animals from quarantine or destruction.

It shall be unlawful for any person to withhold any animal from quarantine or de-

struction when a finding of necessity of quarantine or destruction has been made by the animal control officer.

ARTICLE III. LICENSES

§7-30. License certificate and metal tag required for dogs and cats susceptible to rabies.

For the purpose of keeping records of all dogs and cats that are susceptible to being infected by rabies, every person owning, keeping, harboring, controlling or having custody of any dog or cat over the age of six (6) months shall be required to obtain a license certificate and metal tag for such animal. Every person who maintains a residence in the City of New Smyrna Beach and is the owner of a dog or cat shall be required to obtain a license certificate and metal tag within thirty (30) days of bringing such animal into the City. The license certificate and metal tag shall be purchased from the City annually on the date of the animal's annual rabies vaccination. The license shall expire one (1) year from the date of the animal's last rabies vaccination.

§7-31. Manner of obtaining license certificate and tag; fee.

(a) Issuance of license certificate and tag. Upon submitting proof of rabies vaccination, the license certificate and metal tag required by this article shall be issued by

any licensed veterinarian (who agrees to collect the fee for the license certificate and tag), or by the Southeast Volusia Humane Society, or by the City of New Smyrna Beach.

(b). Fee. The annual fee for a license certificate and metal tag shall be five dollars ($5.00) for each altered male or spayed female and twelve dollars ($12.00) for each unaltered male or unspayed female. Such fee shall be paid at the time of issuance of the license certificate and metal tag.

§7-32. Vaccination required.

Once a year every person who owns, harbors, keeps or maintains any dog, cat or other animal that might carry or transmit rabies, shall cause such animal to be vaccinated against rabies by a veterinarian licensed to practice in this state or by any other person designated by the animal control officer as being qualified to administer such vaccine.

§7-33. Copy of license certificate and fees to be furnished to Finance Department; certificate and tag numbers to correspond.

Upon issuance of a license certificate and metal tag and receipt of the license fee, the issuing agent shall forward a copy of the license certificate and the fee to the City of New Smyrna Beach Finance Department. Any non-municipal issuing agent (a licensed veterinarian or the Southeast Volusia Humane Society) may retain from the fees collected two

dollars ($2.00) per license certificate to cover the costs of the administrative service performed on behalf of the City. The number of the license certificate shall correspond to the metal tag required by this article.

§7-34. Metal tag to be worn by animal.

Every owner of an animal required to be licensed under this article shall cause the animal to wear the metal tag required by this article at all times.

§7-35. Contents of license certificate.

The license certificate required by this article shall contain the name and address of the owner and the name, breed, color and sex of the animal for which the license certificate has been issued.

§7-36. Certification of vaccination. At the time of vaccination, the person administering the vaccine shall certify the date of such vaccination, the name and address of the owner of the animal and the name, breed, color and sex of the animal vaccinated, a copy of which shall be sent to the animal control officer. The certificate of vaccination shall further certify the effective period of the vaccine administered.

§7-37. Exceptions to provisions of article.

(a) The licensing requirements of this article shall not apply to the following:

(1) Dogs, cats or other animals brought into the City for the purpose of exhibiting in

any show;

(2) Handicap aid dogs properly trained to assist blind persons when the dogs are actually used by such persons to assist and aid them in going from place to place;

(3) Any dog, cat or other animal of any age until such animal has been in the City for a period of sixty (60) days.

(b) The vaccination requirements of this article shall not apply to any animal until it has reached the age of six (6) months.

§7-38. Violations.

After the first day of January, any person who owns, keeps, maintains or harbors any dog, cat or other animal that has not been issued a license certificate or a certificate of vaccination as required by this article shall be in violation of this Code and shall be subject, upon conviction thereof, to the penalties provided in Article IV.

ARTICLE IV. PENALTIES FOR VIOLATION

§7-39. Civil Penalty.

Any violation of this chapter constitutes a civil infraction. The maximum civil penalty for any such infraction shall not exceed FIVE HUNDRED DOLLARS ($500.00). A FIFTY DOLLAR ($50.00) civil penalty shall be imposed in the event that the person who has committed an infraction under this chapter does not wish to contest the citation. No citation shall be issued under this chapter unless the officer

who issues the citation has probable cause to believe the person has committed an act in violation of Chapter 7 of the New Smyrna Beach Code of Ordinances. Citations issued under this Ordinance shall be contestable in County Court. §828.27(2), Fla. Stat. (1991).

§7-40. TWO DOLLAR ($2.00) surcharge on civil violations of this Chapter.

In addition to the aforedescribed civil penalties imposed under this Chapter, violators shall pay an additional surcharge of TWO DOLLARS ($2.00) for violations of this Chapter relating to animal control or cruelty. The proceeds from said surcharge shall be used to pay the costs of a forty (40) hour minimum-standards training course for animal control officers. §828.27(3)(b), Fla. Stat. (1991).

ARTICLE V. ANIMAL CONTROL BOARD

The composition, appointment and term of members of the City of New Smyrna Beach Animal Control Board shall be as follows:

§7-41. Composition.

The Animal Control Board shall consist of a licensed veterinarian, a Southeast Volusia Humane Society representative, a dog owner, a member of a kennel club, and a citizen from the City of New Smyrna Beach.

§7-42. Appointment.

All members of the Animal Control Board shall be appointed by and serve at the pleasure of the City Commission. The Chairman of

the Board shall be elected annually from among the appointed members of the Board.

§7-43. Term.

Terms of the Animal Control Board members shall be for TWO (2) years; however, for the initial appointees, three (3) shall serve one-year terms, and the remaining two (2) shall serve two-year terms. Members of the Animal Control Board shall be limited to serving only two consecutive terms unless waived by the City Commission.

§7-44. Functions.

The functions of the Animal Control Board shall be as follows:

(1) Meet at least quarterly or more frequently at the call of the Chairman.

(2) Recommend to the City Commission rules and regulations pertaining to any of the following:

(a) Operation of the animal control facilities operated by the Southeast Volusia Humane Society.

(b) Standards and procedures for the control, collection, care, custody or disposal of animals or animals causing a public nuisance.

(c) Standards and procedures for the enforcement and

regulation of City ordinances and Florida Statutes.

(3) Hear and determine appeals by any person, firm or corporation aggrieved by the issuance or denial of a license or permit, or by the classification of their dogs as dangerous by the Animal Control Officer, or by the confiscation of their dogs for destruction pursuant to Florida Statute 767.12(1).

(4) All decisions of the Animal Control Board of any such appeal shall be final, subject only to review by the City Commission. Said appeal must be exercised within THIRTY (30) days of the date of the Animal Control Board order.

ARTICLE VI. DANGEROUS DOG DETERMINATION AND APPEAL PROCESS

§7-45. Investigation By Animal Control Officer.

The animal control officer is hereby authorized to investigate and determine whether a dog should be classified as a dangerous dog within the meaning of §767.12, Fla. Stat. (1993), or confiscated for destruction pursuant to Florida Statute 767.13(3).

§7-46. Appeal.

The owner has the right to appeal the classification of a dog as a dangerous dog, or confiscation of his animal for destruction pursuant to Florida Statute 767.13(3), to the Animal Control Board. Said right of appeal

may be exercised by the owner within TEN (10) days from the date the dog is classified as dangerous by filing with the Office of the City Clerk, 210 Sams Avenue, New Smyrna Beach, Florida 32168, a written notification of the owner's intent to appeal. It is the responsibility of the owner to keep the dog in a manner consistent with that of a dangerous dog during any appeals process pursuant to Chapter 767 of the Florida Statutes. The cost incurred for the safekeeping of the dog during the appeals process shall be the responsibility of the owner.

§7-47. Hearing.

The hearing shall be held in accordance with the provisions of Chapter 767 of the Florida Statutes. Notice of the hearing to the owner shall be in accordance with the notice provisions of Chapter 767 of the Florida Statutes. The hearing shall be conducted in a manner that insures that the owner shall be afforded an opportunity to be heard, an opportunity to present evidence, an opportunity to present witnesses, an opportunity to cross-examine witnesses, and to be informed of all the facts upon which the Commission's decision is based. The owner shall have the right, at his own expense, to be represented by an attorney at the hearing. *Ex parte* communications with the members of the Animal Control Board shall be prohibited.

SECTION 2: ***Severability.*** That if any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

SECTION 3: ***Publication.*** That ten (10) days prior to adoption, this ordinance shall be noticed once in a newspaper of general circulation in the City of New Smyrna Beach. The Notice of the proposed enactment of this ordinance shall state (1) the title of this ordinance; (2) the date, time and place that the public hearing of this ordinance will be held before the City Commission; and (3) the place or places within the City where this ordinance may be inspected by the public. Said Notice shall also state that interested parties may appear at the public hearing and be heard with respect to the enactment of this proposed ordinance. §166.041(3)(a), Fla. Stat. (1993).

SECTION 4: ***Conflicting Ordinances.*** That all ordinances or parts thereof that are in conflict with this ordinance shall be and the same are hereby rescinded and repealed.

SECTION 5: ***Effective Date.*** That this ordinance shall take effect immediately upon its final passage.

APPROVED AS TO FORM AND CORRECTNESS:

Edward H Beazley

EDWARD H. BEAZLEY, JR.
City Attorney

DATE: **March 20, 1995**

Ordinance No. 7-95 of the City of New Smyrna Beach, Florida was introduced before the City Commission at its Regular Meeting on March 28, 1995 and read by title only. Motion was made by Commissioner Rogers to approve the Ordinance on first reading, and seconded by Commissioner Vandergrifft, the vote thereon being as follows:

MAYOR GEORGE E. MUSSON	Yes
VICE MAYOR JAMES L. VANDERGRIFFT	Yes
COMMISSIONER WILLIAM D. ROGERS	Yes
COMMISSIONER JAMES W. HATHAWAY	Yes
COMMISSIONER ORETHA W. BELL	Yes

Ordinance No. 7-95 was read by title only at the Regular Meeting held by the City Commission on April 11, 1995. Motion was made by Commissioner Bell, seconded by Commissioner Vandergrifft that Ordinance No. 7-95 be adopted on second and final reading, the vote thereon being as follows:

MAYOR GEORGE E. MUSSON	Yes
VICE MAYOR JAMES L. VANDERGRIFFT	Yes
COMMISSIONER WILLIAM D. ROGERS	Yes
COMMISSIONER JAMES W. HATHAWAY	Yes
COMMISSIONER ORETHA W. BELL	Yes

The Deputy City Clerk noted the passage of Ordinance No. 7-95 in the minutes of this meeting by its title only and recorded the same in full in the Ordinance Records of the City.

The Mayor of the City of New Smyrna Beach has hereunto set his official signature duly attested by the Deputy City Clerk and has caused the Official Seal of said City to be hereunto affixed for the purpose of authenticity as required by law.

George E. Musson
Mayor of the City of
New Smyrna Beach, Florida

(OFFICIAL SEAL)

Sandra S. Smith
Deputy City Clerk of the City
of New Smyrna Beach, Florida

P.C S.C.

NEW SMYRNA BEACH
OBSERVER

New Smyrna Beach, Volusia County, Florida 32069

PROOF OF PUBLICATION

STATE OF FLORIDA,
COUNTY OF VOLUSIA:

Before the undersigned authority personally appeared David W. Crawley who on oath says that he is Publisher of the New Smyrna Beach Observer, a daily newspaper published at New Smyrna Beach in Volusia County, Florida; that the attached copy of Advertisement, being a Notice of Public Hearing in the matter of ..... in the ..... Court, was published in said newspaper in the issues of:

March 31 19 95

Affiant further says that the said New Smyrna Beach Observer is a newspaper published at New Smyrna Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, and has been entered as second class mail matter at the post office in New Smyrna Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

David W. Crawley

Sworn to and subscribed before me this ..... day of ....., A.D., 19.....

.....

Pub. Cost. $ 35.00

Volusia

7th April 95

David W Crawley

N/A

Linda J. Brown

LINDA J. BROWN MY COMMISSION EXPIRES NOVEMBER 2, 1997 #CC 327752 Bonded thru Troy Fain-Insurance NOTARY PUBLIC STATE OF FLORIDA

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a second and final Public Hearing has been scheduled for consideration of Ordinance No. 7-95, for Tuesday, April 11, 1995, at 7:30 P.M., City Hall, 210 Sams Avenue, New Smyrna Beach, Florida, which is entitled:

ORDINANCE NO. 7-95

AN ORDINANCE RECODIFYING THE NEW SMYRNA BEACH CODE OF ORDINANCES, CHAPTER 7, ANIMALS AND FOWL; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Copies of Ordinance No. 7-95 may be obtained at City Hall or the ordinance may be read in its entirety in the office of the City Clerk.

Pursuant to Section 166.041 (3)(a), Fla. Stat. (1993), all interested parties may appear and be heard with respect to the proposed Ordinance.

Any person who may decide to appeal any decision made by the City Commission with respect to any matter considered at this hearing will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record should include the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans With Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 210 Sams Avenue, New Smyrna Beach, Telephone (904) 424-2112, not later than seven days prior to the proceeding.

John E. Hagood,
Acting City Clerk

(9350) 3/31

Footnotes:

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Editor's note— *Ord. No. 13-19, § 1(Exh. A), adopted April 9, 2019, amended Chapter 18 in its entirety to read as herein set out. Former chapter 18, §§ 18-1—18-6, 18-31, 18-61—18-64, 18-81—18-83, 18-111—18-117, 18-131—18-134, 18-161, 18-191—18-195, 18-221—18-224, 18-251, 18-252, 18-281—18-283, 18-311—18-322, 18-333—18-336 pertained to similar subject matter. See Code Comparative Table for complete derivation.*

Cross reference— *Environment, ch. 38.*

ARTICLE I. - IN GENERAL

Sec. 18-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Animal under restraint means an animal secured by a leash or lead, under physical restraint, under restraint of a mechanical device such as a cage, or an animal that is confined within the real property or vehicle of its owner.

Animals of utility means animals which are customarily kept and maintained for utility rather than as pets, and shall include horses, cattle, swine, goats, sheep, and bees.

Citation means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. See F.S. § 828.27.

Dangerous animal means any animal, other than a dog, that according to animal control records or investigation has aggressively bitten, attacked, endangered, or has inflicted severe injury on a human being on public or private property. Dangerous animal also means any animal that has, more than once, attacked or severely injured or killed any domestic animal.

Dangerous dog has the same meaning as set forth in F.S. § 767.11.

Exotic animals means any indigenous or nonindigenous animal that would be commonly considered wild or harmful by the general public, and by its nature is venomous or carnivorous and if at large, would be a threat to humans or small mammal life. Exotic animals shall also include any animal defined by the Florida Fish and Wildlife Conservation Commission that is required as part of F.S. § 379.3762 to have a permit or license to possess.

Holding or impounding facility means such facilities as may, from time to time, be designated as holding or impounding facilities by the city.

Owner means any person or legal entity possessing, harboring, maintaining, or keeping or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian. A caregiver participating in an authorized TNR program shall not be considered an owner of any cat in the colony for which he or she is a designated caregiver.

Tethering means the restraining of a dog by means of any type of cord, rope, cable, or chain to any fixed object or structure, including, but not limited to, a house, garage, fence, post, motor vehicle, trailer, shed, weight, ground anchor, or boat. Tethering shall not include the use of a leash to walk a dog, or to forms of restraint used in the transportation of a dog.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-2. - Civil penalty; surcharge for violations of this chapter.

Any violation of this chapter constitutes a civil infraction. The maximum civil penalty for any such infraction shall not exceed $500.00. A $50.00 civil penalty shall be imposed for a first offense, and $250.00 for a second offense, in the event that the person who has committed an infraction under this chapter does not wish to contest the citation. In addition to the aforesaid fines, a surcharge of $5.00 is imposed upon each civil penalty imposed for violation of any chapter relating to animal control or cruelty as authorized by F.S. § 828.27(4)(a). The proceeds from the surcharges shall be used to pay the costs of training for animal control officers. No citation shall be issued under this chapter unless the officer who issues the citation has probable cause to believe the person has committed an act in violation of this chapter. Citations issued under this chapter shall be contestable in county court. See F.S. § 828.27.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-3. - Mandatory court appearances.

A mandatory court appearance is required for violations of this chapter resulting in the unprovoked biting, attacking, or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of local animal cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person. The citation must clearly inform the person of the mandatory court appearance. The animal control officer shall maintain records to prove the number of citations issued to the person. Persons required to appear in court do not have the option of paying the fine instead of appearing in court. See F.S. § 828.27(6).

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-4. - Reserved.

Sec. 18-5. - Designation of city as bird sanctuary; signposting.

(a) *Area.* The entire area embraced within the city is designated as a bird sanctuary. It shall be unlawful for any person to hunt, trap, shoot; attempt to hunt, trap or shoot; molest any bird or wildfowl in any manner; or rob bird nests or wildfowl nests in the city, except on those areas of the city situated west of Glencoe Road having a land use classification or are zoned either agricultural or environmental system corridor.

(b) *Posting.* The city manager is hereby authorized to have proper signs placed on the public highways of the city indicating or showing that the area embraced within the city has been declared as a bird sanctuary. The number, location and size of the signs shall be approved by the city manager.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-6—18-30. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Secs. 18-31—18-60. - Reserved.

DIVISION 2. - ANIMAL CONTROL BOARD

Sec. 18-61. - Composition.

The animal control board shall consist of a licensed veterinarian, a Southeast Volusia Humane Society representative, two animal owners and a citizen from the city who is not an animal owner.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-62. - Appointment.

All members of the animal control board shall be appointed by and serve at the pleasure of the city commission. The chair of the board shall be elected annually from among the appointed members of the board.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-63. - Term.

Terms of the animal control board members shall be for two years.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-64. - Functions.

The functions of the animal control board shall be as follows:

(1) *Meetings.* The board shall meet at least quarterly or more frequently at the call of the chair.

(2) *Oversight.* The board shall recommend to the city commission rules and regulations pertaining to any of the following:

a. Operation of the holding and impoundment facilities contracting with the city to provide such services.

b. Standards and procedures for the control, collection, care, custody, or disposal of animals or animals causing a public nuisance.

c. Standards and procedures for the enforcement and regulation of city ordinances and state law relating to animal control.

(3) *Appeals.* The board shall hear and determine appeals by any person, firm or corporation aggrieved by the classification of their dogs as dangerous by the animal control officer, or by the confiscation of their dogs for destruction pursuant to F.S. § 767.12.

(4) *Review of animal control board decisions.* All decisions of the animal control board shall be in writing signed by the chair and shall be final upon filing of the board's decision with the city clerk. Animal control board decisions shall be subject to judicial review as provided by law.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-65—18-80. - Reserved.

DIVISION 3. - ANIMAL CONTROL OFFICER

Sec. 18-81. - Administration; implementation; enforcement.

(a) *Chief of police.* The chief of police is responsible for enforcing the animal control laws within the city. The animal control officer shall work under the supervision of the chief of police.

(b) *Animal control officer.* The city manager shall appoint one or more animal control officers pursuant to F.S. § 828.27(1)(b). The appointed animal control officers shall enforce all city ordinances and, when authorized by law to do so, all state and federal laws relating to animal

control within the city. No person shall be appointed as an animal control officer who does not meet the requirements of F.S. § 828.27(1)(b).

(c) *Animal impounding facility.* The city commission will contract with a qualified facility for the holding and impoundment of animals.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-82. - Impoundment powers.

The animal control officer shall pick up, capture, catch, procure and impound in a holding facility, any animal found on public or private property under the following circumstances:

(1) *Running at large.* Any animal running at large is in violation of the provisions of this chapter, except that domestic cats found running at large shall be subject to impoundment only if the cat is found climbing on cars, trucks, boats, or other personal property; defecating in flower beds, gardens, or children's sandboxes; or attacking other domestic animals.

(2) *Wild cats.* Wild cats means feral cats. However, this section shall not apply to feral cats which have been picked up, neutered, tagged, and released under a TNR (trap, neuter, and return) program approved by the city manager.

(3) *Dangerous dogs.* A dangerous dog that attacks and causes severe injury to or death of a human as provided in F.S. § 767.13.

(4) *Diseased animals.* An animal that is infected with, or that probable cause exists to believe is infected with, rabies or with any other contagious or infectious diseases.

(5) *Neglected, mistreated animals.* Any animal found on public or private property that has been neglected or mistreated in accordance with F.S. § 828.073.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-84—18-110. - Reserved.

ARTICLE III. - ANIMAL IDENTIFICATION

Sec. 18-111. - Animal identification requirements for dogs, cats, and ferrets.

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

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

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

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

(b) No one is permitted to remove the collar and/or tag of an animal for the purpose of preventing or falsifying the identification of an animal.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-112—18-130. - Reserved.

ARTICLE IV. - EXOTIC ANIMALS

Sec. 18-131. - Registration.

All exotic animals shall be registered with the city. Such registration shall include the name, address and phone number of the keeper of the animal, a description of the breed, coloring and other identifying characteristics, age, and permit number issued by the state pursuant to F.S. § 379.3762, if applicable. If the location on the registration of where the animal is being kept is changed, the animal control division must be notified in writing within 14 days of the new location.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-132. - Containment.

All exotic animals are required to be housed in secure buildings and are not permitted unattended in open runs and must be under direct control at all times of a competent handler at least 18 years of age.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-133. - Disaster plan.

Keepers of exotic animals must register a written hurricane and disaster plan for each such animal with the animal control division.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-134. - Warning sign.

Any person, entity or business selling exotic animals in the city is required to post a sign no less than 24 inches by 36 inches in a prominent location containing substantially this wording:

"Any person possessing an exotic animal in the City of New Smyrna Beach for personal use is required to register the animal with the City and is required to register a written hurricane and disaster plan with the City.

"The seller is also required to provide a copy of this section of this ordinance to the purchaser and obtain a signed receipt acknowledging the purchaser's understanding of the ordinance. The seller shall submit fully completed registration applications to the City of New Smyrna Beach upon the sale of any exotic animal."

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-135—18-160. - Reserved.

ARTICLE V. - HEALTH REQUIREMENTS

DIVISION 1. - GENERALLY

Sec. 18-161. - Dead animal removal by owner.

If an animal dies on public or private property, it shall be the responsibility of the owner of the animal or the owner of the property to remove and dispose of the dead animal immediately. If the owner is not aware of the dead animal's presence, the following procedures shall be followed when any dead animal is found:

(1) On public property, the owner of the dead animal shall remove and dispose of the dead animal upon notification by the animal control officer or other law enforcement officer.

(2) On private property, the owner of the dead animal or owner of the property shall immediately remove and dispose of the dead animal upon notification by the animal control officer or other law enforcement officer.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-162. - Rabies vaccination required.

All persons who own, harbor, keep, or maintain any dog, cat, ferret, or other animal that might carry or transmit rabies, shall cause such animal to be vaccinated against rabies by a veterinarian licensed to practice in this state or by any other person designated by the animal control officer as being qualified to administer such vaccine as required by F.S. § 828.30.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-163—18-190. - Reserved.

DIVISION 2. - RABIES

Sec. 18-191. - Reserved.

Sec. 18-192. - Report of animals suspected of having rabies; animal bites.

When any animal might carry or transmit rabies, or is suspected of having rabies, or is known to have associated with any other animal that has or is suspected of having rabies, it shall be the duty of any person having such knowledge to promptly report it to the county health officer and the animal control officer. It shall be the duty of any person bitten or scratched by any animal other than his or her own animal to report such bite or scratch as soon as possible to the county health officer and the animal control officer.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-193. - Duty of animal control officer upon receipt of report of animal suspected of being rabid; disposition of animals.

The animal control officer, after being notified of any animal described in section 18-192, shall enforce the applicable state law and the applicable rules of the state department of health. In addition, the following procedure shall be followed:

(1) *Quarantine.* When the animal control officer is informed of any domestic animal that shows symptoms of having rabies or has bitten or scratched a person or is suspected of having any other infectious or contagious disease, the animal control officer shall capture the animal, if alive, if possible, and quarantine it at a holding facility for observation for a period of at least ten days from the date of the bite or scratch or the showing of any symptom of rabies or any other infectious or contagious disease. If the owner of any such animal requests and pays the bill in advance, the animal may be quarantined in a licensed veterinary hospital within the county. Upon expiration of the ten-day period and upon presentation of proof of ownership or right of possession, the owner of a quarantined animal shall be entitled to redeem the animal.

(2) *Wild animals.* If any wild, lost or abandoned animal is impounded because it has scratched or bitten a person or is suspected of having rabies or any other infectious or contagious disease, the animal may be destroyed and its head submitted to the health department for pathological examination.

(3) *Death of quarantined animal.* If a quarantined animal dies, the head of the animal shall be submitted to the health department for pathological examination.

(4) *Cost of quarantine.* If any animal that has scratched or bitten a person other than its owner, or that shows symptoms of having rabies or any other contagious or infectious disease, is impounded, the owner shall bear the cost of the care, feeding and maintenance of the quarantined animal until it is either released or destroyed.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-194. - Quarantine authorized; impoundment of animals in violation.

In the event rabies is found to exist in any given area within the city to the extent that circumstances indicate the necessity of quarantine of all animals, the animal control officer shall have the authority to prescribe the area of quarantine and to require that all animals that are capable of transmitting rabies, whether vaccinated or not, be confined to the owner's premises and be permitted away from the owner's premises only upon leash, lead or other mechanical restraint. If any animal already ordered held under quarantine is found to be at large as defined in this chapter, the animal shall be immediately captured and surrendered to the animal control officer and will be impounded for the full term of quarantine, plus an additional five days at the owner's or custodian's expense. In addition, the owner or custodian of the animal may be cited by the animal control officer for violation of this article. Any animal found roaming at large within the quarantined area shall be impounded, and such animal may be released to the owner only upon payment of impounding fees and proof of vaccination within the preceding 12 months.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-195. - Withholding animals from quarantine or destruction.

It shall be unlawful for any person to withhold any animal from quarantine or destruction when a finding of necessity of quarantine or destruction has been made by the animal control officer.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-196—18-220. - Reserved.

DIVISION 3. - STERILIZATION

Sec. 18-221. - Mandatory sterilization.

F.S. § 823.15 requires any person purchasing a cat or dog sold or released for adoption from any public or private animal shelter or animal control agency operated by a humane society to be sterilized within 30 days of its adoption or prior to sexual maturity. Violation of this policy may result in the forfeiture of the animal, any deposit or refund, plus cause the owner or adopter to be fined for a noncriminal violation as defined by F.S. § 775.08(3).

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-222—18-250. - Reserved.

ARTICLE VI. - IMPOUNDMENT

Sec. 18-251. - Redemption of impounded animals.

The animal control officer shall follow the following procedures for the impoundment and redemption of animals:

(1) *Owner notification.* Where an animal bears an indicia of ownership, the owner or keeper of the animal shall be notified promptly that the animal has been impounded.

(2) *Holding period.* Any impounded animal without identification or microchip shall be held and not disposed or destroyed for three days. Animals with identification or microchip shall be held and not disposed or destroyed for seven days. If the owner fails to claim the animal at the expiration of the holding period, the impounded animal shall be deemed abandoned and may be disposed of by the animal impounding facility through either adoption or destruction of the animal. Any impounded animal may be destroyed before the end of the holding period for humane reasons related to relieving needless suffering resulting from injury, sickness, or disease as provided in F.S. § 828.05. The animal control officer may direct that an animal be held by the animal impounding facility for a period in excess of the applicable holding period.

(3) *Computation of holding time.* The holding period shall be computed in the following manner: the day the animal is impounded shall not be included in computation of the holding period and each following day shall be included.

(4) *Redeeming impounded animal.* Upon presentation of proof of ownership or right of possession, the owner of an animal shall be entitled to redeem the impounded animal. To redeem the animal, the owner must pay the impoundment fees and the procurement of any and all required vaccinations. No animal that has been impounded pursuant to F.S. ch. 828 shall be returned to the owner until the return of the animal has been authorized in writing by the investigating law enforcement or animal control officer.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-252. - Disposition of unredeemed animals.

An animal unredeemed after notice and the expiration of the holding period, unless otherwise provided by law, may be destroyed, maintained, or disposed of by gift or sale by being placed in the custody of some person found to be a responsible and suitable owner who will agree to comply with the provisions of this

chapter.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-253—18-280. - Reserved.

ARTICLE VII. - DANGEROUS DOG DETERMINATION AND APPEAL PROCESS

Sec. 18-281. - Investigation and initial determination by animal control officer.

The animal control officer is authorized to investigate and make an initial determination as to whether a dog should be classified as a dangerous dog within the meaning of F.S. § 767.12, and the appropriate penalty, including confiscation for destruction.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-282. - Right to hearing before animal control board.

If the animal control officer makes an initial determination that the dog should be declared dangerous, the owner may request a hearing before the animal control board pursuant to F.S. § 767.12(3). Such right may be exercised by the owner within seven calendar days from the date of receipt of notification that the dog is classified as dangerous by filing with the city clerk's office a written request for hearing. It is the responsibility of the owner to keep the dog in a manner consistent with that of a dangerous dog during any appeal process pursuant to F.S. ch. 767. The cost incurred for the safekeeping of the dog during the appeal process shall be the responsibility of the owner.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-283. - Conduct of hearing; decision by the board.

(a) The hearing shall be held in accordance with the provisions of F.S. ch. 767. Notice of the hearing to the owner shall be in accordance with the notice provisions of F.S. ch. 767. The hearing shall be conducted in a manner that ensures that the owner shall be afforded an opportunity to:
    (1) Be heard;
    (2) Present evidence;
    (3) Present witnesses;
    (4) Cross-examine witnesses; and
    (5) Be informed of all the facts upon which the board's decision is based.

The owner shall have the right, at his or her own expense, to be represented by an attorney at the hearing. Ex parte communications with the members of the animal control board shall be prohibited.

(b) The animal control board's decision shall be in writing signed by the chair and shall be final upon filing with the city clerk. Appeal of animal control board decisions shall be to the circuit court as provided by F.S. § 767.12(4).

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-284. - Process following decision.

Within 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 animal control, and the certificate shall be renewed annually. The cost of the certificate is $250.00 per year. Animal control is authorized to issue such certificate of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the animal control officer sufficient evidence of:

(1) A current certificate of rabies vaccination for the dog.

(2) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.

(3) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

(4) The owner of a dangerous dog must provide to the animal control authority proof from a licensed veterinarian that the dog is sterilized before a certificate of registration may be issued.

(5) In order to protect the public and to afford relief from the severe harm and injury which is likely to result from a dangerous dog attack, every owner of a dangerous dog shall maintain and be able to provide evidence of the owner's financial ability to respond in damages up to and including the amount of $50,000.00 for bodily injury to or death of any person or damage to property which may result from the ownership, keeping or maintenance of such dog. Proof of ability to respond in damages shall be given by filing with the animal control office a certificate of insurance from an insurance company authorized to do business in the state, stating that the owner is and will be insured against liability for such damages; or by posting with the animal control office a surety bond conditioned upon the payment of such damages during the period of such registration; or by posting a personal bond secured by a mortgage in real property or security interest in personal property up to and including the amount of $50,000.00.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-285. - Fine schedule.

(a) Violations of any section of this chapter shall have the following civil penalty:

(1) Violations for an animal which has been spayed/neutered:

First Offense	Second Offense	Third Offense
$50.00	$100.00	$250.00 plus a mandatory court appearance

(2) Violations for an intact (not spayed/neutered) animal:

First Offense	Second Offense	Third Offense
$100.00	$150.00	$300.00 plus a mandatory court appearance

(b) Any person cited under this chapter may have the penalty for violation reduced to the levels listed in section 18-285(a)(1) by having the intact animal spayed or neutered within 30 days of receipt of the civil violation notice.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-286—18-310. - Reserved.

ARTICLE VIII. - OFFENSES

Sec. 18-311. - Keeping animals in unsanitary, offensive manner.

(a) It shall be unlawful for any owner of any animal to keep or maintain such animal in unsanitary conditions or surroundings.

(b) The owner of any animal shall keep the property where the animal is maintained free of animal feces or waste to the extent that is necessary to prevent noxious or offensive odors from escaping onto neighboring lands or public rights-of-way.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-312. - Animal waste.

It shall be unlawful for any owner of any animal to allow the animal to defecate on a public walk, recreational area, or on other than the owner's property, without immediately cleaning up after its animal and properly disposing of the animal feces.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-313. - Tethering of dogs.

Chaining or tethering of dogs is discouraged. In situations where the owner has no choice but to restrain the animal on a tether, the following conditions must be met:

(1) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.

(2) Any chain or tether must be attached to a properly fitted, properly maintained collar or harness; choke chains and ropes should not be used as a part of a tethering system.

(3) If a dog or pup is to be tethered it must be tethered to a stationary object, not an object that could become mobile, such as a car or truck.

(4) If an animal is tethered within a fence, it must be chained or tethered far enough away from that fence as to avoid jumping and hanging.

(5) A tie-out must employ a restraint that is at least 10 feet in length or four times the length of the animal from nose to the base of the tail, whichever is longer. This restraint must be longer if attached to anything that is off the ground which would lessen the moveable area for the animal.

(6) A dog or puppy attached to a fixed point chain or tether which is less than 12 feet in length must be released from that tether for exercise for a minimum of two hours every 24-hour period. (Exercise could be inside the home for interaction with family, or within a fenced enclosure, or under the caretakers' supervision on a leash obeying local leash laws.)

(7)

A tie-out consisting of chain, leash or wire cable must be of reasonable weight so as not to injure the animal's neck, and must be secured in such a way that the tether cannot become entangled with other objects.

(8) Because chained dogs are forced to eat, sleep, urinate, and defecate in a single, confined area, that area must be cleaned daily. It is advised that the area in which a chained dog is kept be changed regularly. Even if properly scooped, the organic materials on the ground cannot be disinfected and could pose a health risk to the animal confined to such area. Also, grass is often worn down by a dog's pacing, thus leaving nothing but dirt or mud.

(9) Any female dogs in heat must be kept in a secured area that prevents male dogs from having access to the female except for controlled breeding permitted by the owner of the female. Additionally, the female dog shall not be tethered in a manner that prevents her from defending herself or from avoiding a male.

(10) No dog may be tethered outside that is under the age of six months old, is sick, injured and in distress, or in the advanced stages of pregnancy.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019; Ord. No. 05-20, § 1(Exh. A), 1-28-2020)

Sec. 18-314. - Shelter required for dogs maintained outdoors.

Any dog or pup that is left unattended outdoors must be provided with proper shelter meeting the following conditions:

(1) Shelters must be suitable for the size, condition and breed of each animal.

(2) Shelters must be structurally sound and maintained in good repair to protect animals from injury. They shall have no sharp edges or points.

(3) Shelters with wire floors must be of a small enough mesh as to not allow the animal's feet to fall through the openings. A solid or soft area must be provided as a sleeping area.

(4) Metal barrels, vehicles, and the like shall not constitute proper shelter.

(5) Shelters must protect the animal against inclement weather, preserve body heat, and allow the animal to remain dry. Additional bedding material must be provided when temperatures are below 50 degrees. Animals shall not be housed outdoors when temperatures fall below freezing.

(6) A shelter with ventilation shall be provided during the warm months, or in addition to the shelter structure, one or more separate areas of shade shall be provided to allow the dogs to protect themselves when sunlight is likely to cause overheating or discomfort.

(7) Floors and walls of outdoor housing facilities must be constructed in such a manner so that they are impervious to moisture and may be readily sanitized. These shelters must be cleaned periodically with the regular removal of food, waste and debris

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-315. - Nuisance animals.

(a) It shall be unlawful for any person to keep, harbor, or maintain any animal which creates a nuisance in any manner described below:

(1) *Creating noise.* It is declared a nuisance for any unprovoked animal to disturb the peace and quiet of a neighboring resident by repeatedly barking, howling, crying, screaming, whining, or making other bothersome noises for a period in excess of ten minutes. Any animal that is provoked to make disturbing noises by causes not reasonably within control of the owner shall not be in violation of this provision.

(2) *Chasing cars or people.* It is declared a nuisance for any unprovoked animal to chase persons, automobiles, other vehicles, livestock, or other domestic animals. Any animal that is provoked into chase by causes not reasonably within control of the owner shall not be in violation of this provision.

(3) *Damaging property.* It is declared a nuisance for any domestic animal to destroy or damage public or private property.

(4) *Running at large.* It is declared a nuisance for any animal to run at large, except and specifically excluding domestic cats.

(5) *Cats.* It is declared a nuisance for any cat to climb on cars, trucks, boats, or other personal property; to defecate in flower beds, gardens, or children's sandboxes; or to attack other domestic animals.

(b) It shall be unlawful for any person to feed stray or feral animals except in connection with a TNR program approved by the city manager, and in compliance with all conditions and requirements of the program.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-316. - Restraint of animals while off property of owner.

(a) *Required.* It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under restraint and control at all times while the animal is off the real property limits of the owner, possessor or custodian. For the purpose of this section, an animal is deemed under control when it is:

(1) Securely confined within a vehicle, parked or in motion; or

(2) Caged or tethered in the open bed of a pickup truck; or

(3) Securely and humanely confined within a house, building, fence, crate, pen or other enclosure with the property owner's consent; or

(4) Humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape with the permission of the owner of the property where the restraint is being used; or

(5) Leashed.

(b) *Public parks.* It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal leashed, under secure restraint within a vehicle parked or in motion, or caged or tethered in the open bed of a pickup truck, at all times when visiting any public park, except in an area of a public park designated as a "dog park".

(c) *Penalty.* Any person found in violation of this section is subject to the penalties prescribed in section 18-285.

(Ord. No. 33-20, § 1, 5-12-2020)

Sec. 18-317. - Abandoning animals prohibited.

It shall be unlawful for any person to abandon any animal within the corporate limits of the city.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-318. - Keeping utility animals within the city prohibited; exceptions.

(a) It shall be unlawful for any person to keep or maintain any poultry, cattle, horses, swine, including potbellied pigs, or other animal or fowl that is used primarily for utility purposes. This section shall have no application to those properties and zones that have been zoned either agricultural or environmental system corridor that are situated west of Glencoe Road. This section shall have no application to persons maintaining such animals within the city prior to June 27, 1972, or to any duly licensed business for the sale of poultry or livestock. Additionally excepted from this provision shall be those allowed under the city's urban chicken program, governed by section 18-323 of this code.

(b) Notwithstanding provisions in this chapter to the contrary, any person owning potbellied pigs on May 9, 2000, may continue to keep potbellied pigs on the property the person either rents or owns subject to the conditions that the person registers with the city's animal control officer as an owner of potbellied pigs on or before December 1, 2000, and that the person does not increase the number of potbellied pigs on the property the person rents or owns. This right to continue to possess potbellied pigs within the city is a personal right granted in recognition of the love and affection that develops between humans and these animals and is not transferable in anyway whatsoever.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-319. - Animals transported in vehicles.

It shall be unlawful to transport any animal unsecured in an open vehicle. Any animal transported in a vehicle shall either be within a cage, crate, or pen which is well-ventilated and secured within the body of the vehicle or restrained by tether affixed to the center of the vehicle and attached to a collar or harness of the animal so as to prevent the animal from escaping or causing injury to itself or any person. The tether shall be short enough to prevent the animal's head from reaching the sides or back of the vehicle. The purpose of this provision is to prevent cruelty to animals resulting from animals falling out of pickup trucks and other vehicles and being injured. Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry, or other agricultural livestock in trailers or other vehicles designated and constructed for such purpose.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-320. - Enticing animals.

It shall be unlawful for any person to entice or lure an animal out of an enclosure or off the property of its owner or keeper, or to seize, molest, or tease an animal which is held or properly confined by its owner or keeper.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-321. - Hiding and concealing animals of others.

It shall be unlawful for any person to hide or conceal any animal to which he does not have legal ownership.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-322. - Duty of person striking animals with vehicle.

If any person knowingly strikes with a vehicle another person's animal or a wild animal within the city, it shall be unlawful for that person to fail to immediately report the injury of the animal to the police or animal control officer.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-323. - Urban chicken program.

(a) *Intent.* The intent of this provision is to create and implement an urban chicken program to permit the keeping of up to five chickens on a single family residential lot subject to certain terms and conditions.

(b)

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

Chicken. A domesticated fowl of the gallus genus. This term shall include only the female chicken (hen), and shall exclude the male chicken (rooster).

Chicken coop. The house or cage in which a chicken lives. Inside coops are often nest boxes for egg-laying and perches on which the birds can sleep.

Chicken pen. The outside area around a coop. An enclosure that is connected to and/or surrounding a chicken coop for the purpose of allowing chickens to leave the coop while remaining in an enclosed predator-safe environment.

Chicken tractor. A movable chicken coop lacking a floor. Chicken tractors may be a lightly built A-frame which one person can drag about the yard. It may have wheels on one or both ends to make this easier.

(c) *Permit.* Notwithstanding section 18-318 above, a resident of a single family detached home may apply for a permit to keep, harbor, raise, or maintain chickens on the property. Application for a permit shall be submitted to the animal control officer. The application package shall include photos of the proposed site of the coop/run areas with a survey of the subject property showing the proposed locations, and proof of successful completion of a University of Florida Agricultural Extension Service class regarding the keeping of chickens or an equivalent class approved by the administrative official. The applicant shall sign a statement acknowledging that the permit may be revoked for any violation of this section, and may be revoked if this section is amended or repealed in the future, and the city shall not be held responsible or liable for any losses to the applicant, including the costs of improvements constructed for the keeping of chickens, if the permit is revoked. No permit shall be issued where the residential property is subject to an outstanding code enforcement case or any city imposed liens. Upon issuance of the permit, the permittee shall be authorized to maintain up to five chickens, subject to compliance with all conditions established herein. The chicken permit is personal to the permittee and shall not be assigned.

(d) The permittee shall be responsible for compliance with the following conditions and restrictions:

(1) A maximum of five chickens may be kept on a single-family detached residential lot.

(2) An urban chicken permit shall only be issued for a lot with an existing single-family detached residence that is owner-occupied.

(3) Ducks, geese, turkeys, peafowl, pigeons, roosters, or any other poultry or fowl are not permitted under the provisions of this section.

(4) Chickens and associated activities shall be kept for personal use only. Selling chickens, eggs, feathers, chicken manure, or the breeding of chickens is prohibited.

(5) Chickens shall not be slaughtered on premises.

(6) The coop, pen, and enclosure shall be located behind the single-family residence in the rear yard and shall be screened from all adjacent properties and rights-of-way with a six-foot-tall opaque fence. Chicken tractors shall not be permitted.

(7) The coop, pen, and enclosure shall comply with the standard setbacks for a shed set forth in the LDRs.

(8) Chicken coops shall provide a minimum of four square feet per chicken to permit free movement of the chickens, shall not exceed 50 square feet, and may have an attached run. The coop shall be tied down for wind resistance. The coop and enclosure shall not be taller than six feet, measured from the natural grade, shall be at least six inches lower than the fence to provide full screening, and shall be easily accessible for cleaning and maintenance.

(9) The coop, pen, and enclosure shall be completely secured from predators, including all openings, ventilation holes, doors, and gates. Fencing or roofing is required over the enclosure in addition to the coop, in order to protect the chickens from predators.

(10) All feed and other items associated with the keeping of chickens that can attract or become infested with rodents or other pests shall be kept in a rodent and pest-proof container.

(11) Chickens shall be secured within a covered chicken coop or fenced pen/run area at all times and shall not be permitted to run at large.

(12) Chicken coops, pens, and enclosures shall be cleaned regularly and maintained in a clean and sanitary condition at all times. Chickens shall not be permitted to create a nuisance due to odor, noise, or pests, or contribute to any other nuisance condition, as defined in the city's codes or state law.

(e) *Enforcement of permit conditions; permit revocation.* These provisions shall be subject to enforcement by a special magistrate appointed by the city commission pursuant to F.S. ch. 162. In addition to fines authorized by F.S. ch. 162, the special magistrate may order revocation of the permit upon determination that the permittee has violated any of the provisions of this section.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Secs. 18-324—18-332. - Reserved.

ARTICLE IX. - MANDATORY SPAY/NEUTER OF ANIMALS

Sec. 18-333. - Purpose.

The purpose of this article is to reduce the number of dogs and cats at large in the city and reduce the number of dogs and cats from the city being presented to area humane shelters.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-334. - Mandatory spay and neuter of dogs and cats.

All owned dogs and cats within the city must be spayed and neutered by six months of age unless exempted s provided by section 18-336.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019; Ord. No. 23-20, § 1, 5-12-2020)

Sec. 18-335. - Penalty.

Any person who violates the provisions of section 18-334 shall be subject to the provisions of F.S. ch. 162, relative to enforcement of code violations. As an alternative, a person may be given a civil citation as provided in section 18-2 of this chapter.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)

Sec. 18-336. - Exemptions.

The provisions of section 18-334 shall not apply if any of the following exemptions are applicable:

(1) *Shows and competitions.* The dog or cat is used to show, to compete or to breed, which is of a breed recognized by and registered with the America Kennel Club (AKC), American Dog Breeders Association (ADBA), Cat Fanciers Association (CFA), or other bona fide registry and meets one of the following requirements:

   a. The dog or cat has competed in at least one show or sporting competition sanctioned by a bona fide national registry within the last 365 days;

   b. The dog earned conformation, obedience, agility, carting, herding, hunting, protection, rally, sporting, working or other title from a purebred dog registry, referenced above, or other registry or dog sport association; or

   c. The owner of the dog or cat is a member of, and the dog or cat is registered with a bona fide purebred dog breed club or cat fancier's association, which maintains and enforces a code of ethics for dog or cat breeding that includes restrictions from breeding dogs or cats with genetic defects and life threatening health problems that commonly threaten the breed, or the owner signs a statement under oath attesting that the dog or cat is being trained to comply with subsection a. or b. above.

(2) *Medical fitness.* A veterinarian licensed in the State of Florida certifies in writing that a dog or cat is medically unfit to undergo the required spay or neuter procedure because of a medical condition, including but not limited to age, would be substantially aggravated by the procedure or would likely result in the death of the dog or cat. The certification must state the

date, if any, by which the dog or cat may be spayed or neutered. As soon as the medical condition that prevents a dog or cat from being spayed or neutered ceases to exist, it shall be the duty of the owner to have it spayed or neutered within 30 days.

(3) *Law enforcement.* The dog is currently used by a law enforcement agency for law enforcement purposes or is part of a bona fide law enforcement animal breeding program.

(4) *Service animals.* A dog or cat that is a service animal as defined in F.S. § 413.08(1)(d), or is part of a bona fide service animal breeding program.

(5) *Breeders.* The owner demonstrates to the city proof of a breeding contract for a particular dog or cat, membership in a bona fide national, state or local organization, for the perpetuation of a given breed of dog or cat or proof of a litter produced by breeding of the dog or cat within the last 365 days.

(6) *Hunting and herding dogs.* The dog is currently used as, or trained to be, a hunting or herding dog and the dog is registered with a bona fide national, state or local hunting or herding dog association. Alternatively, the owner of the dog signs a statement under oath attesting that the dog is used, trained, or will be trained to be a hunting or herding dog.

None of the aforementioned qualifications shall be construed to authorize the breeding or harboring of dogs or cats in violation of the city's zoning regulations, or exempt the owner or his dog or cat from any other provision of this chapter.

(Ord. No. 13-19, § 1(Exh. A), 4-9-2019)