

ORDINANCE NO. #1068
AN ORDINANCE OF THE CITY OF MARIANNA, FLORIDA
AMENDING CHAPTER 10, ANIMALS; PROVIDING FOR
SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARIANNA,
FLORIDA THAT:

SECTION 1. Authority. The authority for enactment of this ordinance is Article 1, Section 1.06 and 1.07 of the Charter of the City of Marianna.

SECTION 2. Amendment. The Land Development Code, Section 4-2.2(5) of the Code of Ordinances for the City of Marianna, is hereby amended to read as follows:

**NOTE: STRIKE THROUGH INDICATES LANGUAGE DELETED AND
UNDERLINE INDICATES LANGUAGE CHANGES.**

CHAPTER 10 - ANIMALS

ARTICLE I. IN GENERAL.

Sec. 10-1 – 10-30. Reserved.

ARTICLE II. AMINAL CONTROL

Sec. 10-31. Title.

This article may be cited as the City animal control ordinance.

Sec. 10-32. Authority and purpose.

This article is enacted to regulate the possession, ownership, care and custody of animals in the interest of the health, safety and welfare of the citizens of the City. The powers and authority granted under this chapter shall be supplemented to those already provided in the Florida Statutes concerning local animal control, the regulation of dangerous animals, cruelty to animals, and the sale or transfer of dogs and cats.

Sec. 10-33. Jurisdiction.

This article shall be in effect throughout the incorporated boundaries of the City. (Ord. No. 854, § 3, 2-4-97)

Sec. 10-34. Definitions

As used in this article, the term:

Animal means any living, dumb creature.

Animal control officer means any person employed or appointed by the city, or State who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this article. An animal control officer is not authorized to bear arms or make arrests. However, such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of sixteen 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.

Animal industry shall mean any veterinarian hospital, pet shop or such place where animals and/or fowl are kept for breeding purposes and/or sale, including horses used in support of a cattle operation not otherwise in violation hereof, or where such are slaughtered and dressed for food purposes and licensed as such by the city. It shall not be construed as applying to those establishments where slaughtered and dressed animals and fowl are cut and sold by the pound to individual household or restaurant purchasers.

Animal Shelter means the Chipley Animal Control Shelter and its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter and the Florida Statutes.

At large means any animal, ~~other than a cat,~~ not under the control, custody, charge, or possession of the owner, keeper, or other responsible person by leash, cord, chain, secure fence, or other means of confinement or restraint. An animal participating in an organized exhibition, field trial, competition, or legal sport, or training for such events, shall not be deemed at large.

Commission means the city commissioners.

Certificate means a rabies vaccination certificate issued by a veterinarian or other person or institution deemed qualified to certify a current vaccination to the animal in writing.

Citation means a written notice, issued to a person by an officer, that the officer has probable cause to believe that the person committed a civil infraction in violation of this article, and that the county court will hear the charge. The citation shall contain:

- (1) The date and time of issuance.
- (2) The name and address of the owner.
- (3) Date and time of the infraction.
- (4) Facts constituting probable cause.
- (5) The ordinance violated.
- (6) Name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty or contest the citation.
- (8) The applicable civil penalty if a person elects to contest the citation.
- (9) The applicable civil penalty if a person elects to abide by the citation.

- (10) A conspicuous statement that if a person fails to pay the civil penalty within the allotted time, or fails to appear in court to contest this citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

Commercial animal establishment means any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, kennel, farm or similar establishment.

Commercial kennel means a kennel which offers or provides services for remuneration, including but not limited to, boarding, care and grooming, breeding, stud services, or sale of offspring of adult dogs and/or cats.

Control means the regulation of the possession, care, ownership, and custody of animals.

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

Dangerous animal means any animal which without provocation has threatened, attacked, bitten or injured a human being or another animal, or which has a known propensity to attack or bite human beings or other animals.

Hobby kennel means a kennel where dogs and/or cats are kept solely for the owner's companionship, or for recreation, sport, or hobby purposes, where no services are offered for remuneration, and where no more than one litter of puppies or kittens are offered for sale in a 12-month period.

Insecurely fenced property means property that an animal can enter upon or leave by going over, under, or through an existing fence.

Keeper means any person, firm, corporation, partnership, or association having possession, custody, or control of an animal.

Kennel means any building, lot, structure, or premise where three or more dogs and/or cats at least four months of age are kept for any purpose, excluding pet beauty parlors, pet shops, pet hospitals, and veterinary hospitals or facilities.

Licensed means that the animal has been vaccinated for rabies and that current tags or other evidence is available to show current rabies vaccination.

Nuisance means:

- (1) Disturbing the peace and quiet of any person by habitually barking, howling, crying, screaming, or making other bothersome noises between, but not limited to, the hours of 11:00 p.m. and 6:00 a.m.
- (2) Disturbing the peace or causing injury or threat of injury to any person or property by habitual or repeated destruction, desecration or soiling of public or private property, chasing of persons cars, or other vehicles, running at large, or other similar conduct or behavior.
- (3) The keeping of any animal, which causes or emits unreasonable or offensive odor which can be detected off the premises of the owner or keeper, or the place where any animal is kept in

such a manner as to cause a breeding place for flies, lice, fleas, or other vermin, or a breeding place for any diseases.

- (4) An animal or bird which threatens, assaults, harasses or torments passerby or passing vehicles, attacks other animals, trespasses on school grounds, or is unrestrained.

Ordinance means any ordinance enacted by the city commission, for the control of or cruelty to animals within the contiguous boundaries of the city the violation of which is a civil infraction.

Owner means any person, firm, corporation, partnership, or association owning or harboring an animal, or any person who feeds or shelters an animal or who permits an animal to remain on his property.

Pet kennel means a kennel where dogs and/or cats are kept solely for the owners' companionship, where no services are offered for remuneration, and where no puppies or kittens are offered for sale.

Restraint means any animal secured by a leash or lead; under the control of a responsible person and obedient to that person's commands within the real property limits of its owner; or within a structure or a fenced enclosure within real property limits of its owner.

Tag means a rabies vaccination tag issued pursuant to this chapter.

Veterinarian means any person who is licensed to engage in the practice of veterinary medicine in Florida, under the authority of F.S. ch. 474.

Veterinarian hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal which without provocation has threatened, attacked, bitten, or injured a human being or another animal ~~on two or more occasions~~, or which has inflicted serious bodily harm on a human being or another animal.

Sec. 10-35. - Rules and regulations.

The Commission may enact rules and regulations to implement and carry out the provisions of this article.

(Ord. No. 854, § 5, 2-4-97)

Sec. 10-36. - Animal control officer.

- (a) The City shall employ an animal control officer to enforce the provisions of this article.
- (b) Pursuant to the law, the animal control officer may enter upon public property and unfenced or insecurely fenced private property, except residential buildings, to administer and enforce the provisions of this article.
- (c) The animal control officer shall investigate complaints of alleged violations of this chapter and shall issue citations of written notice requiring that violations cease or be corrected.
- (d) The animal control officer may seize, catch, or pick up:
- (1) Any stray animal.

- (2) Any animal at large.
- (3) Any animal constituting a nuisance.
- (4) Any dangerous or vicious animal not properly secured, confined, or restrained by the owner or keeper of the animal.
- (5) Any female dog or cat in heat not properly confined by the owner or keeper of the dog or cat.
- (6) Any dog or cat not wearing a vaccination tag.
- (7) Any carrying or believed to be carrying rabies.
- (8) Any sick or injured animal for which the owner or keeper cannot be identified.
- (9) Any animal otherwise in violation of this article.

(e) The animal control officer shall impound any animal caught, seized or picked up pursuant to this article.

(f) The animal control officer may declare an animal to be a dangerous animal or a vicious animal and shall order the owner or keeper of such animal to secure, confine or restrain the animal as required by this article.

(g) The animal control officer may carry and utilize a humane chemical capture device to subdue and tranquilize an animal.

Sec. 10-37. - Confinement and quarantine of animals.

(a) Upon complaint, the animal control officer shall investigate whether an animal is dangerous or vicious. If the officer declares the animal to be dangerous or vicious, he shall provide written notice to the owner or keeper of the animal. The written notice shall state all the known facts and shall order the owner or keeper to chain the animal securely to the owner's or keeper's property [or] to securely confine the animal. ~~in a reasonable manner specified by the officer.~~ The owner or keeper shall immediately comply with the officer's written order.

(1) Because of the pit bull dog's inbred propensity to attack other animals and because of the danger posed to humans and animals alike by a pit bull dog when running loose or while running together in a pack, pit bull dogs must at all times be securely and totally enclosed in a locked pen, with either a top or with sides six (6) feet high.

(2) At any time that a pit bull dog is not confined as required in subsection (a) above, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal and kept on a leash no longer than six (6) feet with the owner or custodian in attendance.

(b) The owner or keeper of a female dog or cat in heat (estrus) shall confine such a dog or cat so as to make it inaccessible to any male dog or cat, except for controlled and intentional breeding purposes. Confinement by a leash, chain, or other similar restraint, or within a fence, open kennel, open cage, or run, may be, but shall not be presumed to be, in compliance with this section.

(c) When an animal has bitten or is believed to have bitten a human being or another animal, or is suspected of carrying rabies, the animal shall be quarantined for a reasonable period of time, as determined by the animal control officer, but in no case, no less than ten days. At the discretion of the officer the animal may be quarantined in a city approved pound or subpound, at any approved facility, or at the owner or keeper's property under the supervision of the animal control officer.

Sec. 10-38. - Seizure of animals.

(a) A property owner or tenant may seize in a humane manner any animal at large on his property in violation of this article. Where such seizure is made the property owner or tenant shall immediately deliver the animal to the animal control officer.

(b) Any person who seizes an animal pursuant to this section shall exercise utmost care to treat the animal humanely and to avoid cruelty, injury, sickness, hunger, or other ailment or affliction in both seizure and delivery of the animal. Any person unable to comply with this section shall not seize any animal.

Sec. 10-39. - Impound of animals.

(a) Animals will be impounded at the city pound, and will remain under the control and supervision of the animal control officer until such fines and forfeitures as determined by the City Commission have been satisfied.

(b) The animal control officer may retain the services of a licensed veterinarian to treat any sick or injured animals, or any animal believed to be carrying rabies, retained in the city pound. When the owner or keeper of such animal is identified, such owner or keeper shall be liable for payment of the veterinarian expenses or reimbursement of the city's expenses in treating the animal.

(c) By resolution, the commission shall establish fees to be charged for impounding animals pursuant to this article. Impound fees shall be deposited in the city's general operating fund.

(d) No animal impounded by this article shall be released until:

- (1) The owner of an impounded dog or cat which is not vaccinated or does not have a current tag, makes arrangements for vaccination and obtaining a tag.
- (2) The owner or keeper of the animal pays all fees and expenses and obtains vaccinations and tags for the animal impounded.
- (3) The owner or keeper executes a sworn statement of ownership, and releases the city from any forthcoming liability or responsibility with regard to the animal impounded.
- (4) If a dangerous or vicious animal is impounded, the county court enters a final judgment or issues an order releasing the animal pending final judgment on the civil infraction.

Sec. 10-40. - Disposition of animals.

(a) When a court of competent jurisdiction adjudges an animal to constitute a nuisance under this article or any other law, the animal control officer may seize the animal, and the City may sell, destroy, or otherwise dispose of the animal.

(b) The city may transfer ownership or custody to a humane agency, sell, destroy, or dispose of any animal impounded pursuant to this article where:

- (1) No owner exists.
- (2) An owner cannot be identified.
- (3) An identified owner cannot be notified.
- (4) An owner is notified, but by his statements, actions, or failure to act, indicates an intent to abandon the animal.
- (5) An owner does not claim the animal within five working days.
- (6) The animal control officer shall make every reasonable effort to identify and notify the owner or keeper of an animal impounded pursuant to this a chapter. Such effort must be made for a reasonable period of time. However, where the city complies fully with this section and where such efforts fail, resulting in the transfer of ownership or custody, sale, destruction, or other disposal of the animal, the city shall be deemed to have complied fully with due process of the law, and the owner or keeper shall not be entitled to compensation for loss of the animal.

Sec. 10-41. - Disposal of dead animals.

(a) When an animal dies, the owner or keeper of the animal shall dispose of the remains immediately.

(b) When the animal control officer discovers a dead animal on private property, he shall, after identification of the owner or keeper of the dead animal, provide written notice to the owner or keeper of the dead animal to immediately dispose of the animal. If the owner or keeper of the dead animal does not comply within 24 hours after receipt of the written notice, the city shall cause the remains to be disposed of and shall bill the owner or keeper, as applicable for the cost of such disposal. If the owner or keeper of the dead animal cannot be identified, it shall be the responsibility of the animal control officer or his designee, to dispose of the remains of the dead animal.

(c) When a dead animal is found on public property, the animal control officer shall dispose of the remains immediately, and shall make a reasonable effort to identify and notify the owner or keeper of such animal.

Sec. 10-42. - Rabies vaccinations of dogs and cats.

(a) The owner or keeper of a dog or cat in the city, shall cause such dog or cat to be vaccinated against rabies each year by a licensed veterinarian. Evidence of rabies vaccination shall consist of a certificate signed by the licensed veterinarian administering the vaccination and identifying the dog or cat.

(b) Rabies vaccination is excused only if a dog or cat is under the age of four months, or if a licensed veterinarian certifies in writing that rabies vaccination would be injurious to the health of the dog or cat. In the latter case the dog or cat shall be confined in an enclosed building or a kennel at all times until a licensed veterinarian can safely vaccinate the dog or cat.

(c) The owner or keeper of a dog or cat which is vaccinated against rabies shall obtain a tag for such dog or cat each year. The tag shall be attached to the collar of the dog or cat and shall be worn at all times except:

- (1) When the dog or cat is participating in an organized exhibition, field trial, competition, or legal sport under the supervision of its owner or keeper, or is being groomed.

- (2) When the dog or cat is confined in a licensed kennel, grooming facility or veterinary hospital, in which case the tag number shall be recorded and readily identifiable with the dog or cat to which it belongs. In the absence of a tag, it shall clearly be indicated on records of the controlling establishment.
- (3) When a licensed veterinarian orders in writing the collar and tag be removed from a dog or cat for health reasons, in which case the dog or cat shall be confined in an enclosed building or a kennel at all times until a licensed veterinarian permits the collar and tag to be placed on the dog or cat.
- (4) Any person bringing a dog or cat into the city, with the intent to reside permanently or temporarily for a period of six months, shall comply with this section within 30 days after arrival to the city.

Sec. 10-43. - Certificates and tags.

- (a) Tags must be purchased for animals over the age of four months from the City, and issued only up to presentation of a proof of a valid certificate of vaccination issued by a licensed veterinarian. No other tags shall be valid in the city.
- (b) Each certificate and tag shall be valid for a period of one year from the anniversary date of the rabies vaccination. A certificate or tag is valid only for the dog or cat to whom it is issued.
- (c) If a tag is lost or destroyed, the city or a licensed veterinarian shall issue a replacement tag upon presentation of the appropriate certificate, and payment of the applicable fees.
- (d) It shall be a violation of this article for any owner, heir(s) to real property or person(s) in charge or in control of any property within the city limits to allow or keep more than four (4) domestic animals on any premises unless operating a duly licensed kennel or pet shop. Exceptions to this requirement may be granted by the City Council when conditions are deemed appropriate. References to dogs and domestic animals only refer to animals older than three (3) months of age.

Sec. 10-44. - Tag and kennel fees.

- (a) By resolution, the commission shall establish fees to be charged for issuing tags pursuant to this chapter, provided that said fees shall not exceed the following limits:
 - (1) Dog tag \$ 20.00
 - (2) Cat tag 20.00
 - (3) Replacement tag 5.00
 - (4) Transfer of ownership 10.00
 - (5) Hobby kennel 100.00
 - (6) Commercial kennel 200.00
- (b) Any city resident who owns either a seeing-eye dog or a hearing dog, properly trained, and actually being used to assist a blind person, respectively, may obtain from the city, one tag each year at no charge upon presentation of proof of such utilization and a certificate for the dog.

(c) Tag fees collected shall be deposited in the city's general revenue fund. All expenses of administrating and enforcing this article shall be paid from the general fund.

Sec. 10-45. - Violations.

- (a) It is a violation of this article for any person to interfere with the animal control officer in the administration or enforcement of this article.
- (b) It is a violation of this article for any person to refuse to surrender an animal upon lawful demand by the animal control officer.
- (c) It is a violation of any person to attempt to take an animal from the custody of the animal control officer or the city control pound or subpound or other city property without permission from the city or animal control officer.
- (d) It is a violation of this article for the owner or keeper of a dog or cat to refuse to show the certificate, tag, or other document required by or issued pursuant to this chapter, upon lawful demand by the animal control officer, provided that the animal control officer may allow the owner or keeper 72 hours to produce the requested certificate.
- (e) It is a violation of this article for any person to possess or use a stolen, counterfeit or forged certificate, tag, or other document required by or issued pursuant to this article.
- (f) It is a violation of this article for the owner or keeper of an animal declared to be dangerous or vicious, to fail to secure, confine, or restrain the animal as ordered by the animal control officer pursuant to this article.
- (g) It is a violation of this article for an owner or keeper of a female dog or cat in heat (estrus) to fail to confine the dog or cat as required by this article.
- (h) It is a violation of this article for the owner or keeper of an animal which has bitten or is believed to have bitten a human being or other animal, or is suspected of carrying rabies, or fail to quarantine the animal as required by the animal control officer pursuant to this article.
- (i) It is a violation of this article for any property owner or tenant to subject an animal to cruelty, injury, sickness, hunger, or other ailment or affliction, either intentionally or negligently, in seizure or delivery of the animal pursuant to this article.
- (j) It is a violation of this article for the owner or keeper of an animal which has died, or the owner of private property upon which an animal has died, to fail to dispose of the remains of the animal as ordered by the animal control officer pursuant to this article.
- (k) It is a violation of this article for the owner or keeper of a dog or cat to refuse or fail to have the dog or cat vaccinated against rabies each year as required by this article.
- (l) It is a violation of this article for an owner or keeper of a dog or cat which is vaccinated against rabies to refuse or fail to obtain a tag for the dog or cat each year.
- (m) It is a violation of this article for any person to remove the collar and tag from a dog or cat which is vaccinated against rabies, except as otherwise provided for in this article.
- (n) It is a violation of this article 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 controlled by its owner or keeper or which is on the property of its owner or keeper.
- (o) It is a violation of this article for the owner or keeper of an animal to permit, either willfully or negligently, the animal to be at large.
- (p) It is a violation of this article for the owner or keeper of an animal to permit, either willfully or negligently, the animal to constitute a nuisance.
- (q) It is a violation of this article for the owner or keeper of a dog or cat to permit, either willfully or negligently, the dog or cat to defecate upon:
 - (1) Any public property, other than in areas designated for such purpose; or
 - (2) Any private property without permission of the property owner.
- (r) It shall be unlawful to confine any animal in a building, enclosure, car, boat, vehicle of any kind when extreme heat or cold will be harmful to its health. The animal control officer may remove any animal so confined, after a reasonable attempt to locate the owner of the animal has failed, and may use the amount

of force reasonably necessary to remove the animal. The animal control officer will leave a written notice in a prominent place indicating that the animal has been impounded and where it is may be claimed by the owner. Violation of this subsection shall be punishable by a fine of fifty dollars (\$50.00).

(s) It shall be unlawful for any person to hinder, obstruct or otherwise interfere with an officer while discharging his duties under this chapter; or to take or attempt to take any animal from any vehicle used by the officer to transport animals; or to take or attempt to take any animal from the animal shelter without proper authority or to knowingly interfere with any animal traps set by an officer or persons obtaining such traps from the animal control agency.

Sec. 10-46. - Proceedings for violations.

(a) An officer who has probable cause to believe that a person has committed an act in violation of this article may issue a citation to the person.

(b) If the person elects not to contest the citation, he shall pay the civil penalty to the clerk of the county court within 14 days after the issuance of the citation.

(c) If a person elects to contest the citation, he shall appear at the office of the clerk of the county court within 14 days after the issuance of the citation. The clerk shall schedule a hearing in county court and shall provide written notice of the hearing to the person and the animal control officer.

(d) If a person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation, and in such case, judgment may be entered against that person for an amount up to the maximum civil penalty.

(e) A violation of this chapter may constitute a civil or criminal infraction punishable by the maximum penalty pursuant to Florida Statutes.

Sec. 10-47. - Penalties.

(a) A violation of this article is a civil infraction.

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

(c) (c) If a person who has committed a civil infraction does not contest the citation, the civil penalty shall be less than the maximum civil penalty.

(1) First infraction: \$ 25.00

(2) Second infraction: 50.00

(3) Third infraction: 100.00

(4) Fourth infraction: Up to \$500.00

~~(d)~~ Any person who willfully refuses to sign and accept a citation issued by the animal control officer shall be guilty of a misdemeanor of the second degree, punishable as provided by Florida Statutes, F.S. §§-775.082—775.084.

Sec. 10-48. - Barnyard animals.

No person shall keep or permit to run at large in the City any animals of the equine, bovine or swine class and includes goats, sheep, mules, horses, hogs or cattle and domesticated poultry except for the purposes of the animal industry. Under no circumstances shall an animal industry as defined herein be allowed if the same creates a nuisance as defined in section 10-34 City of Marianna Code or elsewhere in the City of Marianna Code.

Sec. 10-49. Harboring Stray Animals.

(a) Persons who harbor any stray animal shall be required to notify the animal control agency of the presence of the stray animal, including a description of the animal, which information will assist the animal control agency and/or animal owners in locating missing pets. Notification may be made by contacting the animal control agency or city hall.

(b) Upon the written complaint of any person that a person owns or is keeping or harboring a pit bull dog or otherwise threatening or dangerous animal on the premises in the City, the police department may forthwith cause the matter to be investigated, and if after investigation the facts indicate that such person named in the complaint is in fact the owner of is keeping or harboring any such pit bull dog or other dangerous or threatening animal in the City and has not properly registered under this article, the animal control officer shall forthwith send written notice to such person requiring such person to either apply for a registration under this article or remove the animal from the City limits within three(3) days of the date of the notice.

Sec. 10-50. Setting Poison.

Whoever leaves or deposits any poison or any substance containing poison, in any common street, alley, lane or thoroughfare of any kind, or in any yard or enclosure other than the yard or enclosure occupied or owned by such person shall be guilty of a misdemeanor of the first degree, punishable as provided by Florida Statutes.

Section 3. Severability. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions there of shall remain valid and enforceable.

Section 4. Effective Date. This Ordinance shall become effective upon its adoption by the City Commission as provided by law.

PRESENTED AND READ BY TITLE TO THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA ON THE ____ DAY OF _____, 2018.

PASSED AND ADOPTED BY THE CITY COMMISSION OF MARIANNA, FLORIDA ON THIS THE _____ DAY OF _____, 2018.

Marianna City Commissioners

By: _____

KENNETH HAMILTON, Mayor/Commissioner

ATTEST:

KIMBERLY J. APPLEWHITE, City Clerk